

EXHIBIT R

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4 ANTHONY A. MACHOLTZ, an individual,
5 Plaintiff,
6 -vs- Case No. 1:19-CV-173
7 CARRINGTON MORTGAGE SERVICES, LLC, a Delaware
8 limited liability company; and WILMINGTON SAVINGS
9 FUND SOCIETY, FSB, as Trustee of Standwich Mortgage
10 Loan Trust, a Delaware corporation,
11 Defendants.
12

13 The deposition of DARYL DEWHURST was taken by the
14 Plaintiff on Friday, March 13, 2020, at 28400
15 Northwestern Highway, 2nd Floor, Southfield, Michigan,
16 at 10:16 a.m.
17

18
19
20
21
22 Job #613528

23
24 Reported by: Cindy A. Boedy, CSR 4696
25 Certified Stenographic Reporter

<p>Page 2</p> <p>1 APPEARANCES:</p> <p>2 WESTBROOK LAW, PLLC</p> <p>3 Theodore J. Westbrook</p> <p>4 6140 28th Street SE</p> <p>5 Suite 115</p> <p>6 Grand Rapids, Michigan 49546</p> <p>7 twestbrook@westbrook-law.net</p> <p>8 616.888.6111</p> <p>9 Appearing on behalf of the Plaintiff.</p> <p>10</p> <p>11 MADDIN HAUSER ROTH & HELLER, PC</p> <p>12 Deborah Lapin</p> <p>13 28400 Northwestern Highway</p> <p>14 2nd Floor</p> <p>15 Southfield, Michigan 48034-8348</p> <p>16 248.208.0709</p> <p>17 dlapin@maddinhauser.com</p> <p>18 Appearing on behalf of the Defendants.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1</p> <p>2 TABLE OF CONTENTS</p> <p>3</p> <p>4 WITNESS PAGE</p> <p>5 DARYL DEWHURST</p> <p>6 Examination by Mr. Westbrook 5</p> <p>7</p> <p>8</p> <p>9</p> <p>10 EXHIBITS (Attached)</p> <p>11 Exhibit 1 notice of deposition 11</p> <p>12 Exhibit 2 mortgage 13</p> <p>13 Exhibit 3 compromise settlement 27</p> <p>14 and release agreement</p> <p>15 Exhibit 4 judgment of divorce 31</p> <p>16 Exhibit 5 loan modification agreement 35</p> <p>17 Exhibit 6 case caption 42</p> <p>18 Macholtz versus CitiMortgage, Inc.</p> <p>19 Exhibit 7 two documents 45</p> <p>20 Exhibit 8 computer printout 52</p> <p>21 Exhibit 9 documents 69</p> <p>22 Exhibit 10 notice of sale and 79</p> <p>23 pending foreclosure</p> <p>24</p> <p>25 (Exhibits continued - page 4)</p>
<p>Page 4</p> <p>1 EXHIBITS (continued)</p> <p>2 Exhibit 11 publication notices 83</p> <p>3 Exhibit 12 6/15/18 letter 87</p> <p>4 Exhibit 13 7/25/18 letter 94</p> <p>5 Exhibit 14 4/24/18 letter 105</p> <p>6 Exhibit 15 10/8/18 letter 110</p> <p>7 Exhibit 16 fax cover sheet 119</p> <p>8 Exhibit 17 defendants' supplemental 121</p> <p>9 responses to plaintiff's</p> <p>10 request for admission</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 Southfield, Michigan</p> <p>2 Friday, March 13, 2020</p> <p>3 10:16 a.m.</p> <p>4</p> <p>5 - - -</p> <p>6</p> <p>7 COURT REPORTER: Do you swear the</p> <p>8 testimony you're about to give will be the truth,</p> <p>9 the whole truth, and nothing but the truth?</p> <p>10 THE WITNESS: I do.</p> <p>11 D A R Y L D E W H U R S T ,</p> <p>12 after having been first duly sworn to tell the</p> <p>13 truth, the whole truth, and nothing but the</p> <p>14 truth, was examined and testified follows:</p> <p>15 EXAMINATION</p> <p>16 BY MR. WESTBROOK:</p> <p>17 Q. Good morning, Mr. Dewhurst.</p> <p>18 A. Good morning.</p> <p>19 Q. I'm saying that correctly, aren't I?</p> <p>20 A. Yes.</p> <p>21 Q. Thanks for being here. I know under the</p> <p>22 circumstances it isn't the easiest trip to make.</p> <p>23 A. Right. My pleasure.</p> <p>24 Q. So you're employed by Carrington Mortgage</p> <p>25 Services; is that correct?</p>

<p style="text-align: right;">Page 6</p> <p>1 A. Correct.</p> <p>2 MS. LAPIN: Ted, can I just put a quick</p> <p>3 objection? I just want to indicate that I had</p> <p>4 issued those objections to the dep notice, and so</p> <p>5 I'm just repeating and incorporating them herein,</p> <p>6 and that's it.</p> <p>7 MR. WESTBROOK: That's fine. I</p> <p>8 received those objections.</p> <p>9 MS. LAPIN: Thanks.</p> <p>10 BY MR. WESTBROOK:</p> <p>11 Q. What is your job title?</p> <p>12 A. Case manager.</p> <p>13 Q. What does the job title case manager entail?</p> <p>14 What are your ordinary responsibilities?</p> <p>15 A. Basically I review contracts, business records</p> <p>16 and procedures, and attend court trials,</p> <p>17 settlements, mediations, depositions such as</p> <p>18 this.</p> <p>19 Q. I assume you've had your deposition taken before?</p> <p>20 A. No.</p> <p>21 Q. This is your first one?</p> <p>22 A. It is.</p> <p>23 Q. Well, I should go over the general parameters</p> <p>24 then.</p> <p>25 I'm sure you're familiar with the</p>	<p style="text-align: right;">Page 7</p> <p>1 question and answer format of a deposition,</p> <p>2 correct?</p> <p>3 A. Sure.</p> <p>4 Q. You've had a chance to meet with your counsel</p> <p>5 about what a deposition involves?</p> <p>6 One of the ground rules that I'm going</p> <p>7 to probably have to get on your case about from</p> <p>8 time to time, and don't take it personally, is</p> <p>9 waiting until I'm done asking a question before</p> <p>10 you start your answer. If we're talking at the</p> <p>11 same time, it's really difficult for the court</p> <p>12 reporter to get down everything, and having to</p> <p>13 look at a transcript afterwards and determine</p> <p>14 whether an answer was to the question being asked</p> <p>15 or not is difficult if more than one person is</p> <p>16 talking at a time.</p> <p>17 So a real ordinary conversational thing</p> <p>18 that we do is anticipate where the question is</p> <p>19 going and answer before the speaker is done.</p> <p>20 I'll ask that you try not to do that. If you do,</p> <p>21 I'll just issue gentle reminders, and we'll go on</p> <p>22 our way, okay?</p> <p>23 A. That's fine.</p> <p>24 Q. If there's a question that you don't understand,</p> <p>25 that's unclear to you, I'd ask that you point</p>
<p style="text-align: right;">Page 8</p> <p>1 that out to me and ask me to clarify. Is that</p> <p>2 fair?</p> <p>3 A. Yes.</p> <p>4 Q. Otherwise, I'll assume that you've understood the</p> <p>5 question, okay?</p> <p>6 A. Yes.</p> <p>7 Q. Have you ever testified at a trial before?</p> <p>8 A. Yes.</p> <p>9 Q. How many trials have you testified at?</p> <p>10 A. It's impossible to put a number. Many trials.</p> <p>11 Q. More than ten?</p> <p>12 A. Yes.</p> <p>13 Q. Have you testified at a trial in the state of</p> <p>14 Michigan before?</p> <p>15 A. No.</p> <p>16 Q. Do you have a particular territory or do you go</p> <p>17 all around the country?</p> <p>18 A. Essentially, all around the country. I can't say</p> <p>19 that I've been to every state, but I've been to a</p> <p>20 lot of them.</p> <p>21 Q. Fair enough.</p> <p>22 Do you have a direct supervisor at</p> <p>23 Carrington?</p> <p>24 A. Yes.</p> <p>25 Q. I may refer to Carrington as CMS. You'll know</p>	<p style="text-align: right;">Page 9</p> <p>1 what I mean if I say CMS, right?</p> <p>2 A. Yes.</p> <p>3 Q. Who is your direct supervisor at CMS?</p> <p>4 A. Clayton Gordon.</p> <p>5 Q. What is Mr. Gordon's title?</p> <p>6 A. Things have changed recently at CMS, Carrington.</p> <p>7 I think his title might be mediation manager.</p> <p>8 Q. Do you know how many direct reports he has?</p> <p>9 A. No.</p> <p>10 Q. Is it fair to say that as part of your job</p> <p>11 duties, you've been assigned to monitor</p> <p>12 litigation and act as a liaison between CMS and</p> <p>13 its outside counsel?</p> <p>14 MS. LAPIN: I'm just going to object to</p> <p>15 the form of the question. You can answer.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. WESTBROOK:</p> <p>18 Q. Have you been assigned to be a representative of</p> <p>19 CMS in connection with this case that we're here</p> <p>20 for?</p> <p>21 A. Yes.</p> <p>22 Q. What does that assignment involve?</p> <p>23 A. I reviewed many documents in relation to the</p> <p>24 notice of deposition provided in anticipation of</p> <p>25 today's deposition.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q. When did you receive that assignment to be CMS's 2 representative in this case?</p> <p>3 A. I would say -- I don't know the exact date, but 4 it would be probably three or four weeks ago.</p> <p>5 Q. Did you have any involvement in CMS's efforts to 6 produce documents in this case?</p> <p>7 A. No.</p> <p>8 Q. Do you know who did?</p> <p>9 A. No.</p> <p>10 Q. Do you have an understanding of what this case 11 Macholtz versus Carrington Mortgage Services is 12 about?</p> <p>13 A. Yes.</p> <p>14 Q. What's your understanding?</p> <p>15 A. My understanding loosely is that the property 16 went to foreclosure and the borrower is 17 contesting that.</p> <p>18 Q. You said you reviewed some documents after you 19 received the assignment to be Carrington's 20 representative here, right?</p> <p>21 A. Yes.</p> <p>22 Q. How many documents did you review?</p> <p>23 A. There was a lot. There was literally hundreds of 24 pages of documents.</p> <p>25 Q. How were they provided to you? In what form?</p>	<p style="text-align: right;">Page 11</p> <p>1 A. They were provided electronically and also in 2 physical form.</p> <p>3 Q. Were they provided to you by CMS's counsel or 4 someone else?</p> <p>5 A. They were provided by CMS counsel.</p> <p>6 Q. Inside counsel or outside counsel that's here 7 with you today?</p> <p>8 A. Counsel that's here with me today.</p> <p>9 Q. Did you review any documents that were not 10 provided by your counsel that's here with you 11 today in preparation for today?</p> <p>12 A. I did receive some documents internally within 13 CMS. I cannot remember which of those documents 14 they were, but I did receive some documents 15 internally.</p> <p>16 Q. All right. Do you know if all the documents that 17 you reviewed to prepare for today's deposition 18 have been produced in this litigation?</p> <p>19 A. As far as I'm aware.</p> <p>20 Q. As far as you're aware, they were?</p> <p>21 A. Yes.</p> <p>22 (Exhibit 1 marked.)</p> <p>23 BY MR. WESTBROOK:</p> <p>24 Q. I'm going to hand you a document I just marked as 25 Exhibit 1. This document is entitled, "Notice of</p>
<p style="text-align: right;">Page 12</p> <p>1 Rule 30(b)(6) Deposition of Carrington Mortgage 2 Services, LLC." Do you see that title there on 3 the first page?</p> <p>4 A. Yes.</p> <p>5 Q. I'll represent to you that this is the notice 6 that is the reason why we're here today. Is this 7 a document you reviewed before?</p> <p>8 A. Yes.</p> <p>9 Q. And are you prepared to testify as to CMS's 10 knowledge regarding the noticed topics?</p> <p>11 A. Yes.</p> <p>12 Q. What did you do to prepare to testify apart from 13 reviewing the documents as we just talked about?</p> <p>14 A. Again, I reviewed the documents as previously 15 described and consulted with counsel who is 16 present today.</p> <p>17 Q. Did you meet with any other CMS employees to 18 prepare to provide testimony today?</p> <p>19 A. I did speak with Clayton Gordon. Actually 20 physically meeting with someone, no.</p> <p>21 Q. What did you speak with Mr. Gordon about?</p> <p>22 A. Just loosely preparation for depositions as this 23 is my first deposition.</p> <p>24 Q. Understandable.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Mr. Gordon has some experience, some guidance to 2 impart about depositions generally?</p> <p>3 A. Yes.</p> <p>4 Q. Anything specific to this particular case?</p> <p>5 A. Not that I recall, no.</p> <p>6 Q. You can put Exhibit 1 aside for the moment. 7 Do you recall if the documents that you 8 reviewed in preparation for today included a note 9 and mortgage from Anthony and Dena Macholtz 10 around the 2005 time frame?</p> <p>11 A. Yes. From memory, the documents did contain 12 those.</p> <p>13 Q. From reviewing those documents, you understand 14 CMS wasn't the original servicer of the loan, 15 correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Do you recall who the original servicer was?</p> <p>18 A. No.</p> <p>19 MR. WESTBROOK: I'm not going to make 20 this a memory test. I've got documents to show 21 you that I think will help refresh your memory. 22 (Exhibit 2 marked.)</p> <p>23 BY MR. WESTBROOK:</p> <p>24 Q. I'll hand you what we've marked Exhibit 2. 25 Exhibit 2 is entitled, "Mortgage." You see that</p>

<p style="text-align: right;">Page 14</p> <p>1 title at the top of the first page there?</p> <p>2 A. Yes, I do.</p> <p>3 Q. I'll ask you to ignore the header there, which is</p> <p>4 part of the court filing header that's on each</p> <p>5 page, because that wasn't part of the original</p> <p>6 document. But apart from that, we have thirteen</p> <p>7 pages and on the last page we have signatures by</p> <p>8 Anthony A. Macholtz and Dena G. Macholtz. Do you</p> <p>9 see that?</p> <p>10 A. Yes, I do.</p> <p>11 Q. Appears looking at the first page that the</p> <p>12 mortgage is in favor of MERS, Mortgage Electronic</p> <p>13 Registration Systems, Inc., as nominee of lender</p> <p>14 Home Loan USA Corporation. Do you see that on</p> <p>15 the first page?</p> <p>16 A. Yes, I do.</p> <p>17 Q. As far as you can tell, is this the mortgage</p> <p>18 that's at issue in this case?</p> <p>19 A. As far as I can tell, yes.</p> <p>20 Q. I understand you wouldn't have memorized every</p> <p>21 word of the document.</p> <p>22 A. No.</p> <p>23 Q. That would be unreasonable for me to assume that</p> <p>24 you had, but you don't have any reason to believe</p> <p>25 that there's some other mortgage at issue in this</p>	<p style="text-align: right;">Page 15</p> <p>1 case, right?</p> <p>2 A. No.</p> <p>3 Q. Do you know generally when CMS became the</p> <p>4 servicer of the loan that's connected with this</p> <p>5 mortgage?</p> <p>6 A. I can't recall off the top of my head.</p> <p>7 Q. If I told you information I received reflects</p> <p>8 that CMS started servicing loans sometime around</p> <p>9 January of 2017, would that be consistent with</p> <p>10 your memory?</p> <p>11 A. Yes. That jogs my memory, yes.</p> <p>12 Q. Also, would it be consistent with your memory</p> <p>13 that the predecessor servicer to CMS was</p> <p>14 CitiMortgage?</p> <p>15 A. Yes.</p> <p>16 Q. Now, did CMS receive information from</p> <p>17 CitiMortgage when CMS became the servicer?</p> <p>18 A. Yes.</p> <p>19 Q. Is there a standard set of information CMS</p> <p>20 typically receives from a predecessor servicer</p> <p>21 when CMS becomes the new servicer?</p> <p>22 A. We would receive the service and history</p> <p>23 documents in relation to the loan being</p> <p>24 transferred.</p> <p>25 Q. How is that information transmitted to CMS from</p>
<p style="text-align: right;">Page 16</p> <p>1 the predecessor?</p> <p>2 A. That would --</p> <p>3 MS. LAPIN: In general or this</p> <p>4 particular one?</p> <p>5 MR. WESTBROOK: I suppose I'll start</p> <p>6 with in general.</p> <p>7 THE WITNESS: Generally, we would</p> <p>8 receive notification of a transfer of loans and</p> <p>9 we would receive the loan file if it was part of</p> <p>10 a series of loans. We'd go through a series of</p> <p>11 checks and balances to make sure the information</p> <p>12 is correct from the transmitted party to CMS.</p> <p>13 If at any time there's a discrepancy in</p> <p>14 the information, we would reject the file and we</p> <p>15 would also have a series of conference calls and</p> <p>16 e-mails with the transferring organization to</p> <p>17 verify that the information is correct and iron</p> <p>18 out any problems.</p> <p>19 BY MR. WESTBROOK:</p> <p>20 Q. So would the information -- with respect to this</p> <p>21 particular file coming from CitiMortgage to CMS,</p> <p>22 information that came over from CitiMortgage,</p> <p>23 would that have included the principal amount of</p> <p>24 the loan?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. The amount past due?</p> <p>2 A. Yes.</p> <p>3 Q. The escrow shortage amount, if there was any?</p> <p>4 A. Yes.</p> <p>5 Q. The periodic payment amount?</p> <p>6 A. Correct.</p> <p>7 Q. The interest rate?</p> <p>8 A. Yes.</p> <p>9 Q. And I suppose the term of the loan, the length?</p> <p>10 A. Yes.</p> <p>11 Q. I think you may have covered this, but I want to</p> <p>12 make sure I'm clear on it. Apart from the</p> <p>13 history, the account history for the loan that</p> <p>14 would show payments and disbursements and things</p> <p>15 like that, other documents would have come to CMS</p> <p>16 from CitiMortgage also, right?</p> <p>17 A. Correct.</p> <p>18 Q. The note and mortgage, for example, would those</p> <p>19 come over from CMS -- or from CitiMortgage, I</p> <p>20 apologize?</p> <p>21 A. Sorry. Yes.</p> <p>22 Q. The history of account statements?</p> <p>23 A. Yes.</p> <p>24 Q. By the way, do they come over -- did they come</p> <p>25 over from CitiMortgage to CMS in electronic form</p>

<p style="text-align: right;">Page 18</p> <p>1 or paper?</p> <p>2 A. I believe they would have come across in both</p> <p>3 formats to the best of my knowledge.</p> <p>4 Q. What about communications, like letters, from</p> <p>5 CitiMortgage to the borrowers, would those have</p> <p>6 come over from CitiMortgage to CMS on this file?</p> <p>7 A. Again, to the best of my knowledge, yes.</p> <p>8 Q. Would any court orders involving the loan have</p> <p>9 come over from CitiMortgage to CMS?</p> <p>10 A. To the best of my knowledge.</p> <p>11 Q. Do you know if a document like a judgment of</p> <p>12 divorce with a property settlement came over from</p> <p>13 CitiMortgage to CMS?</p> <p>14 A. Possibly. I can't recall seeing it myself, but</p> <p>15 possibly.</p> <p>16 Q. Would that be something you'd typically expect to</p> <p>17 find in a file from a predecessor servicer if</p> <p>18 there has been a judgment of divorce with a</p> <p>19 property settlement involving the loan?</p> <p>20 A. If there was one provided to the prior servicer,</p> <p>21 then it could reasonably be expected to be</p> <p>22 provided.</p> <p>23 Q. Understood.</p> <p>24 Other court orders involving loan could</p> <p>25 include litigation judgments; is that fair?</p>	<p style="text-align: right;">Page 19</p> <p>1 A. Yes, to the best of my knowledge.</p> <p>2 Q. Do you know if any litigation judgments came</p> <p>3 through from CitiMortgage to CMS on this</p> <p>4 particular Macholtz loan file?</p> <p>5 A. I'm unsure.</p> <p>6 Q. Do you know if any bankruptcy court orders came</p> <p>7 through from CitiMortgage to CMS on the Macholtz</p> <p>8 loan file?</p> <p>9 A. I'm unsure.</p> <p>10 Q. You alluded to this just a minute ago. I want to</p> <p>11 get into it. There's a procedure at CMS for</p> <p>12 reviewing information that comes to CMS from a</p> <p>13 predecessor servicer like CitiMortgage, right?</p> <p>14 A. Correct.</p> <p>15 Q. And I think you testified that that procedure</p> <p>16 involves reviewing what comes through in the file</p> <p>17 to see that the history and servicing industry is</p> <p>18 accurate. Is that fair?</p> <p>19 A. Yes.</p> <p>20 Q. Who does that review at CMS?</p> <p>21 A. That would be individuals within our collateral</p> <p>22 department.</p> <p>23 Q. Does a review like that take place with respect</p> <p>24 to every loan that CMS receives servicing rights</p> <p>25 to from the predecessor?</p>
<p style="text-align: right;">Page 20</p> <p>1 A. To the best of my knowledge, yes.</p> <p>2 Q. The standard practice is to do that type of</p> <p>3 review, right?</p> <p>4 A. To the best of my knowledge.</p> <p>5 Q. Do you know what information -- as a matter of</p> <p>6 policy or procedure, do you know what information</p> <p>7 is reviewed by CMS?</p> <p>8 MS. LAPIN: I'm just going to object to</p> <p>9 the form and just to the extent that you're</p> <p>10 delving into procedure or policy that could be</p> <p>11 deemed proprietary. That's all.</p> <p>12 You can still answer. Unless I direct</p> <p>13 you not to answer, you've got to answer.</p> <p>14 THE WITNESS: Would you mind repeating</p> <p>15 the question, please?</p> <p>16 BY MR. WESTBROOK:</p> <p>17 Q. I'm interested to know as a matter of standard</p> <p>18 procedure what information CMS reviews when a</p> <p>19 loan file comes in from a predecessor servicer.</p> <p>20 A. To my knowledge, they would review financial</p> <p>21 information, the balances, interest rates, escrow</p> <p>22 amounts, et cetera. And, again, to my knowledge,</p> <p>23 they would review documents from the document</p> <p>24 file.</p> <p>25 Q. The goal of this review is to ensure that CMS has</p>	<p style="text-align: right;">Page 21</p> <p>1 the essential loan information correct so that it</p> <p>2 can do its job as servicer, correct?</p> <p>3 MS. LAPIN: Objection to form.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. WESTBROOK:</p> <p>6 Q. Is there any document or documents or compilation</p> <p>7 of information or report that's created as a</p> <p>8 result of the loan file review that we just</p> <p>9 discussed?</p> <p>10 MS. LAPIN: Same objection in terms of</p> <p>11 policy, procedure, proprietary information, but</p> <p>12 go ahead.</p> <p>13 And also I would also -- form, just</p> <p>14 general procedure as opposed to this particular</p> <p>15 case, but you can definitely still answer.</p> <p>16 THE WITNESS: I'm unsure.</p> <p>17 BY MR. WESTBROOK:</p> <p>18 Q. Do you know if any report of a loan review by CMS</p> <p>19 of the file that came from CitiMortgage in this</p> <p>20 instance was created?</p> <p>21 MS. LAPIN: Same objection.</p> <p>22 THE WITNESS: I haven't seen the</p> <p>23 report, but I'm sure that it would have been some</p> <p>24 kind of a checks and balance report.</p> <p>25 BY MR. WESTBROOK:</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. Do you know if that's a document that would be</p> <p>2 included in CMS's electronic systems?</p> <p>3 A. I'm sure it would be, yes.</p> <p>4 Q. Do you know what the title of that report would</p> <p>5 be?</p> <p>6 A. No, I don't.</p> <p>7 Q. Is it fair to say that once CMS completed its</p> <p>8 loan review with respect to this Macholtz loan</p> <p>9 file that CMS input information, servicing</p> <p>10 information, into CMS's own servicing</p> <p>11 information?</p> <p>12 A. Yes.</p> <p>13 Q. Information put into the servicing system would</p> <p>14 have to include all those parameters we talked</p> <p>15 about, right, the interest rate of the loan?</p> <p>16 A. Yes.</p> <p>17 Q. The principal balance, right?</p> <p>18 A. Yes.</p> <p>19 Q. The delinquency, if there is one, right?</p> <p>20 A. Right.</p> <p>21 MS. LAPIN: Just going to object to</p> <p>22 form.</p> <p>23 BY MR. WESTBROOK:</p> <p>24 Q. Do you know if with respect to this loan file</p> <p>25 that's at issue in this case if CMS took into</p>	<p style="text-align: right;">Page 23</p> <p>1 account any court orders when it input</p> <p>2 information regarding the Macholtz loan into its</p> <p>3 system?</p> <p>4 A. I don't know.</p> <p>5 Q. If CMS determines that there's some kind of</p> <p>6 discrepancy between the documents that show up in</p> <p>7 a loan file it's receiving from a predecessor and</p> <p>8 the loan history that's come from the</p> <p>9 predecessor, what is done by CMS in that</p> <p>10 instance?</p> <p>11 MS. LAPIN: Just my same general</p> <p>12 objection regarding policy, procedure, to the</p> <p>13 extent it constitutes proprietary info, but</p> <p>14 definitely still answer.</p> <p>15 THE WITNESS: To my knowledge, any</p> <p>16 discrepancy would be brought up between CMS and</p> <p>17 whomever the prior servicer may be, and until the</p> <p>18 discrepancy was addressed, the loan would not be</p> <p>19 boarded into our system.</p> <p>20 BY MR. WESTBROOK:</p> <p>21 Q. Do you know if any discrepancy was brought up by</p> <p>22 CMS with CitiMortgage with respect to the loan</p> <p>23 that's at issue in this case?</p> <p>24 A. I'm not aware of any discrepancy, but the loan</p> <p>25 obviously was boarded into our system.</p>
<p style="text-align: right;">Page 24</p> <p>1 Q. Are you aware of any modification of the Macholtz</p> <p>2 loan that's at issue in this case that took place</p> <p>3 in the year 2013?</p> <p>4 A. To the best of my knowledge, I'm aware of, I</p> <p>5 believe, a trial payment plan that was entered</p> <p>6 into.</p> <p>7 Q. If a loan modification agreement existed in a</p> <p>8 file of a predecessor servicer that came over</p> <p>9 from CMS or came over from CitiMortgage to CMS,</p> <p>10 is that something that the CMS reviewer or</p> <p>11 reviewers would take into account in determining</p> <p>12 whether the loan file is all consistent with the</p> <p>13 predecessor servicer's account history?</p> <p>14 MS. LAPIN: Just going to object to</p> <p>15 form. You can answer.</p> <p>16 THE WITNESS: Again, would you mind</p> <p>17 repeating the question? I didn't quite catch --</p> <p>18 MR. WESTBROOK: I may be able to</p> <p>19 rephrase it better.</p> <p>20 THE WITNESS: Seemed like a lot of</p> <p>21 questions in one question.</p> <p>22 MS. LAPIN: That's right. That's all.</p> <p>23 You're going to be able to answer the question.</p> <p>24 Just let me make the objection.</p> <p>25 BY MR. WESTBROOK:</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. What I'm after is in the situation in which a</p> <p>2 modification agreement appears in the file that's</p> <p>3 coming over from a predecessor servicer to CMS,</p> <p>4 is that document something that the CMS reviewer</p> <p>5 reviewing the account that's coming in for</p> <p>6 servicing would take into account in determining</p> <p>7 whether there is a discrepancy between the</p> <p>8 information that's provided by the predecessor</p> <p>9 and what shows up in the documents in its file?</p> <p>10 MS. LAPIN: Same objection as to form.</p> <p>11 You can answer if you ...</p> <p>12 THE WITNESS: The agreement would be</p> <p>13 reviewed by our collateral team. Had the loan or</p> <p>14 any loan been modified, then the terms of such</p> <p>15 loan would be entered into our system to the best</p> <p>16 of my knowledge.</p> <p>17 BY MR. WESTBROOK:</p> <p>18 Q. All right. That's fair. Let me walk you through</p> <p>19 more of a concrete hypothetical maybe.</p> <p>20 Let's say a loan file comes in to CMS</p> <p>21 from a predecessor like CitiMortgage and Citi</p> <p>22 Mortgage's account history shows the loan hasn't</p> <p>23 been modified, but then there's a modification</p> <p>24 agreement that comes through in the documents</p> <p>25 that seems to show that it has been modified.</p>

<p style="text-align: right;">Page 26</p> <p>1 How would that scenario be treated by CMS?</p> <p>2 MS. LAPIN: Just going to object.</p> <p>3 Form, foundation, calls for speculation.</p> <p>4 THE WITNESS: Again, to the best of my</p> <p>5 knowledge, any documents that are provided would</p> <p>6 be imaged into our system.</p> <p>7 But it seems to be potentially the same</p> <p>8 answer to the similar previous question that had</p> <p>9 a loan actually been finally modified and terms</p> <p>10 been established, then they would have been</p> <p>11 entered into CMS's system at the onboarding</p> <p>12 stage.</p> <p>13 BY MR. WESTBROOK:</p> <p>14 Q. Notwithstanding that the predecessor servicer</p> <p>15 appeared not to recognize that modification?</p> <p>16 A. That would appear correct.</p> <p>17 Q. You said you reviewed many documents prior to</p> <p>18 today involving this loan file. Were you aware</p> <p>19 as a result of that review of a lawsuit regarding</p> <p>20 this loan that was initiated back in 2011 by</p> <p>21 Mr. Macholtz and his wife against CitiMortgage?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know if CMS received information about</p> <p>24 that lawsuit from CitiMortgage with the loan</p> <p>25 file?</p>	<p style="text-align: right;">Page 27</p> <p>1 A. To the best of my knowledge, yes.</p> <p>2 Q. Do you know if CMS received information regarding</p> <p>3 the settlement of that lawsuit?</p> <p>4 A. I don't recall.</p> <p>5 (Exhibit 3 marked.)</p> <p>6 BY MR. WESTBROOK:</p> <p>7 Q. I've just handed you what we've marked Exhibit 3.</p> <p>8 At the top in bold underlined, it says,</p> <p>9 "Compromise Settlement and Release Agreement."</p> <p>10 Do you see that at the top of the first page</p> <p>11 there?</p> <p>12 A. Yes, I do.</p> <p>13 Q. Looks like five pages, signature page on page 5,</p> <p>14 with a signature under the title, "CitiMortgage,</p> <p>15 Inc." Do you see that?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Is this a document that you've seen before?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know if CMS's files that came over from</p> <p>20 CitiMortgage regarding this loan contained this</p> <p>21 document?</p> <p>22 A. I reviewed many documents and this does appear to</p> <p>23 be one of them. But, like I said, I reviewed</p> <p>24 hundreds of pages of documents.</p> <p>25 Q. You don't know whether this was a document that</p>
<p style="text-align: right;">Page 28</p> <p>1 would have come over form CitiMortgage to CMS as</p> <p>2 part of the servicing transfer?</p> <p>3 A. It should have come across as part of the</p> <p>4 servicing transfer.</p> <p>5 Q. Do you know if anyone received this document when</p> <p>6 CMS became a servicer?</p> <p>7 A. To the best of my knowledge, it would have been</p> <p>8 reviewed as part of the onboarding process.</p> <p>9 Q. Under the recitals portion, which is the second</p> <p>10 paragraph on the first page, it refers to the</p> <p>11 prior lawsuit that I mentioned. It says,</p> <p>12 "Whereas there is pending in the United States</p> <p>13 District Court for the Western District of</p> <p>14 Michigan, remove to federal court from the</p> <p>15 Berrien County Circuit Court, an action entitled</p> <p>16 'Anthony A. Macholtz versus CitiMortgage, Inc.,</p> <p>17 Case No. 1:11-CV-01250-JTN.'" Did I read that</p> <p>18 correctly?</p> <p>19 A. Yes.</p> <p>20 Q. I'd like you to flip to the following page.</p> <p>21 There is a section labeled, "To CMI's obligations</p> <p>22 and representations." Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And I'll represent to you that CMI is initialism</p> <p>25 for CitiMortgage, Incorporated. With that</p>	<p style="text-align: right;">Page 29</p> <p>1 assumption, under subsection A entitled "Loan</p> <p>2 Modification," it says, "CMI has offered</p> <p>3 plaintiff the loan modification agreement</p> <p>4 attached hereto and incorporated herein as</p> <p>5 Exhibit A. Plaintiff shall execute and supply</p> <p>6 all documents necessary to effectuate the loan</p> <p>7 modification as detailed in the loan modification</p> <p>8 agreement." Do you see that?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Fair to say this document seems to refer to a</p> <p>11 loan modification that's to be entered into as</p> <p>12 part of a settlement of the lawsuit, right?</p> <p>13 MS. LAPIN: I'll just object on the</p> <p>14 grounds that the document speaks for itself.</p> <p>15 THE WITNESS: Yes, that's how it</p> <p>16 appears.</p> <p>17 BY MR. WESTBROOK:</p> <p>18 Q. You can tell looking at the first paragraph of</p> <p>19 the first document who the parties to the</p> <p>20 agreement are.</p> <p>21 A. The first paragraph, if you don't mind, I'll read</p> <p>22 it just for verification. "This compromised</p> <p>23 settlement and release agreement, [agreement], is</p> <p>24 entered into this 24th day of April, 2013. The</p> <p>25 effective date by and between Anthony A.</p>

<p style="text-align: right;">Page 30</p> <p>1 Macholtz, hereinafter referred to as plaintiff, 2 and CitiMortgage, Inc., including its affiliates 3 and subsidiaries hereafter referred to as CMI, 4 plaintiff, and CMI sometimes collectively 5 referred to herein as the parties. The parties 6 are executing this agreement with respect to the 7 following matters."</p> <p>8 Q. Yes, I agree that you've read that correctly. 9 Seems to indicate parties to this agreement are 10 Mr. Macholtz and CitiMortgage, Inc., right?</p> <p>11 A. Yes.</p> <p>12 Q. Dena Macholtz isn't mentioned in that paragraph, 13 right?</p> <p>14 A. That's correct. She's not mentioned.</p> <p>15 Q. Are you aware of any communications -- I'm going 16 to leave aside the initial influx of information 17 from CitiMortgage to CMS regarding this loan, 18 that initial package. Aside from that, have 19 there been discussions or communications between 20 CMS and CitiMortgage regarding this lawsuit 21 that's referenced in Exhibit 3?</p> <p>22 A. I'm trying to refresh my memory.</p> <p>23 MS. LAPIN: The question, discussions 24 between CMS and CMI?</p> <p>25 MR. WESTBROOK: Correct.</p>	<p style="text-align: right;">Page 31</p> <p>1 MS. LAPIN: That's the question?</p> <p>2 MR. WESTBROOK: Yes.</p> <p>3 THE WITNESS: To the best of my 4 knowledge, I'm not aware of any discussions.</p> <p>5 BY MR. WESTBROOK:</p> <p>6 Q. Do you have a memory having reviewed many 7 documents of whether at the time that the 8 settlement is dated April 24 of 2013 whether 9 Anthony and Dena Macholtz were still married at 10 that time?</p> <p>11 A. I'm unaware. I know that -- well, to the best of 12 my knowledge, they were going through or had gone 13 through a divorce, but I don't know the date of 14 the divorce.</p> <p>15 Q. Understood.</p> <p>16 (Exhibit 4 marked.)</p> <p>17 BY MR. WESTBROOK:</p> <p>18 Q. Handing you what's been marked as Exhibit 4. At 19 the top of the page is a caption, "State of 20 Michigan Berrien County Trial Court Family 21 Division." Just below that, the names Dena Gail 22 Macholtz, plaintiff, versus Anthony A. Macholtz, 23 defendant. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And the title of the document says, "Judgment of</p>
<p style="text-align: right;">Page 32</p> <p>1 Divorce." Are you with me?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know if CMS's files reflected a divorce 4 judgment in a case where Dena Macholtz and 5 Anthony Macholtz were parties?</p> <p>6 A. In my review of the document file, I cannot 7 remember coming across such a document.</p> <p>8 MS. LAPIN: I'll just state for the 9 record, we produced this. This is our Bates 10 stamp.</p> <p>11 Whether you recall reviewing it is, 12 obviously, is another story.</p> <p>13 MR. WESTBROOK: Right. Maybe I'll just 14 clarify that too, because I think that's helpful.</p> <p>15 BY MR. WESTBROOK:</p> <p>16 Q. The Bates stamp on the bottom right-hand corner 17 of the document on this first page is marked 18 CMS/WILM00087, right?</p> <p>19 A. Okay.</p> <p>20 Q. And is it your understanding that where documents 21 bear that Bates stamp prefix that they have come 22 from CMS's file?</p> <p>23 MS. LAPIN: I'm just going to state, 24 he's not going to, I think, necessarily know 25 that.</p>	<p style="text-align: right;">Page 33</p> <p>1 MR. WESTBROOK: He can tell me if he 2 doesn't know.</p> <p>3 MS. LAPIN: Yeah.</p> <p>4 THE WITNESS: I'm unaware.</p> <p>5 BY MR. WESTBROOK:</p> <p>6 Q. Do you know of any other source for a document 7 that would show up with that Bates stamp other 8 than CMS's files?</p> <p>9 A. No.</p> <p>10 Q. I'm sorry, you said you don't recall reviewing 11 this document?</p> <p>12 A. That's correct.</p> <p>13 Q. Does that mean you may have, but you don't recall 14 it as we sit here today?</p> <p>15 A. Yes.</p> <p>16 Q. I'd like you to turn if you could to page 6 of 11 17 of the document that is Bates stamp 00092. At 18 the very top of that page is a paragraph that's 19 numbered 6.01, real property. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. It says, "The defendant, Anthony A. Macholtz, 22 shall have and hold as its own separate state 23 that certain real property located at 1886 24 Russell Road, Baroda, Michigan, 49101," and then 25 there's a more lengthy property description. Did</p>

<p style="text-align: right;">Page 34</p> <p>1 I read that correctly?</p> <p>2 A. Yes.</p> <p>3 Q. Now, that 1886 Russell Road property in Baroda is</p> <p>4 the same property that's reflected on the</p> <p>5 mortgage that's at issue in this case, right?</p> <p>6 A. That's correct.</p> <p>7 Q. Underneath that paragraph that we just finished</p> <p>8 talking about, it says, "Further, the defendant,</p> <p>9 Anthony A. Macholtz, shall pay any and all</p> <p>10 indebtedness owing with respect to said real</p> <p>11 estate and shall hold the plaintiff, Dena Gail</p> <p>12 Macholtz -- this is a typographical error -- but</p> <p>13 Dena Gail Macholtz harmless from any and all such</p> <p>14 debts." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. This would then appear to reflect that Dena</p> <p>17 Macholtz was giving up the property, giving it to</p> <p>18 Anthony Macholtz in the judgment of divorce,</p> <p>19 right?</p> <p>20 MS. LAPIN: Objection. Form,</p> <p>21 foundation, the document speaks for itself.</p> <p>22 THE WITNESS: That's how it would</p> <p>23 appear.</p> <p>24 BY MR. WESTBROOK:</p> <p>25 Q. In the final paragraph of that section, it says,</p>	<p style="text-align: right;">Page 35</p> <p>1 "The plaintiff shall execute and deliver to the</p> <p>2 defendant coincident with the entry of this</p> <p>3 judgment divorce a quitclaim deed for the above</p> <p>4 described property." Did I read that correctly?</p> <p>5 A. Yes.</p> <p>6 MR. WESTBROOK: You can set that aside</p> <p>7 for now.</p> <p>8 (Exhibit 5 marked.)</p> <p>9 BY MR. WESTBROOK:</p> <p>10 Q. Handing you what I've just marked Exhibit 5.</p> <p>11 I'll represent to you that it looks to me like</p> <p>12 it's a couple of separate documents together, the</p> <p>13 first top sheet being one document that has a big</p> <p>14 Dykema logo in the upper-left corner, right?</p> <p>15 A. Yes.</p> <p>16 Q. And then following that is one or two, it's hard</p> <p>17 to tell where there's a document split, documents</p> <p>18 with a Citi logo, right?</p> <p>19 A. That's correct.</p> <p>20 Q. Have you had a chance to just flip through that</p> <p>21 quickly?</p> <p>22 A. Just looking through it right now.</p> <p>23 Q. Okay. Do you know if you had a chance to review</p> <p>24 these documents prior to today's deposition?</p> <p>25 A. It appears to have been part of the documents</p>
<p style="text-align: right;">Page 36</p> <p>1 that I reviewed.</p> <p>2 Q. All right. Now, the first page that has the big</p> <p>3 Dykema logo on it, it's addressed to Angela</p> <p>4 Goggins, CitiMortgage, right?</p> <p>5 A. Yes.</p> <p>6 Q. Subject line, CitiMortgage v Macholtz. Says,</p> <p>7 "Dear Angela, Enclosed please find the original</p> <p>8 signed modification per your request. Please</p> <p>9 contact me if you have any questions."</p> <p>10 Sincerely, and then has a signature, Dykema</p> <p>11 Gossett, by Mark J. Magyar. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. It appears to reference an enclosure and then on</p> <p>14 the subsequently Bates numbered pages looks like</p> <p>15 there's something in the form of an agreement,</p> <p>16 right?</p> <p>17 MS. LAPIN: Objection. Form,</p> <p>18 foundation, documents speak for themselves.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. WESTBROOK:</p> <p>21 Q. Is it your understanding that CMS received this</p> <p>22 document or these documents from CitiMortgage</p> <p>23 when CMS began servicing the Macholtz loan?</p> <p>24 A. To the best of my knowledge.</p> <p>25 Q. Do you know if CMS ever compared the terms that</p>	<p style="text-align: right;">Page 37</p> <p>1 are reflected in these documents to the servicing</p> <p>2 information that CitiMortgage provided to CMS?</p> <p>3 A. I'm sure the document itself would have been</p> <p>4 reviewed and had the mortgage actually -- sorry,</p> <p>5 the modification taken place, it would have been</p> <p>6 -- the terms would have been boarded into CMS's</p> <p>7 system.</p> <p>8 Q. Is it your understanding that the terms of this</p> <p>9 document were not boarded into CMS's system?</p> <p>10 A. To the best of my knowledge, they were not</p> <p>11 boarded into our system.</p> <p>12 Q. Looking at the page that's Bates marked</p> <p>13 CMS/WILM01721. This appears to be addressed to</p> <p>14 Anthony A. Macholtz at the top, right?</p> <p>15 A. Yes.</p> <p>16 Q. I'm going to walk through some of the terms that</p> <p>17 are present in these documents. The first one</p> <p>18 that I'm interested in is there are several steps</p> <p>19 that are listed on this page. There's Step 4.</p> <p>20 It says your new total monthly payment, in</p> <p>21 parentheses, includes principal, interest, taxes,</p> <p>22 and insurance, close paren, is \$1,747.59 and is</p> <p>23 due on 2/1/2013, right?</p> <p>24 A. Yes.</p> <p>25 Q. Then two pages later, the number is 1723, is</p>

Page 38

1 either a section of that document or a new
2 document, that is entitled, "Loan Modification
3 Agreement." Do you see that?
4 A. Yes.
5 Q. It appears -- it says it is made -- this loan
6 modification agreement made this 26th day of
7 December, 2012, between Anthony A. Macholtz and
8 CitiMortgage, Inc., amends and supplements the
9 mortgage date of trust for security deed and
10 timely payment rewards rider, if any, dated
11 9/21/2005, right?
12 A. Yes.
13 Q. Under Section 1 underneath the section we were
14 just there at the top, the front matter, it says
15 the new principal balance as of 01/01/13, the
16 amount payable under the note and security
17 instrument, in parentheses, the new principal
18 balance is US \$194,401.23, consisting of the
19 unpaid amount loan to borrower and lender, plus
20 any other interest and other amounts capitalized.
21 Do you see that?
22 A. Yes.
23 Q. Now, that new principal balance reflects a
24 different principal balance than what shows up in
25 CMS's systems as the principal balance on the

Page 40

1 A. Macholtz, right?
2 A. That's correct.
3 Q. Appears to be a signature above Anthony A.
4 Macholtz, fair?
5 A. Yes.
6 Q. Appears to be a blank above the CitiMortgage
7 signature line, fair?
8 A. Correct.
9 Q. And no signature line on this page or the
10 preceding page or the following page for Dena
11 Macholtz, right?
12 A. That's correct.
13 Q. We do see on the last page, there's a notary
14 line. It appears Mr. Macholtz's signature may
15 have been notarized. Is that fair?
16 A. Yes.
17 Q. Do you have an understanding as to why the terms
18 reflected in these documents were not boarded
19 into CMS's servicing system?
20 A. To the best of my knowledge, the loan wasn't
21 modified by Citi prior to boarding into CMS.
22 Q. Your understanding then is CMS having reviewed
23 this determined that there wasn't a valid
24 modification reflected by these documents?
25 A. To the best of my knowledge, that is the case.

Page 39

1 loan, right?
2 A. I'm unaware.
3 Q. All right. We'll get into a comparison of it I
4 suppose later.
5 Just to clarify what you testified to a
6 moment ago, it's your understanding that someone
7 at CMS would have taken a look at this document
8 and compared it against the servicing information
9 that came in from CitiMortgage on this file?
10 MS. LAPIN: I'll object. Asked and
11 answered and form, but go ahead.
12 THE WITNESS: I mean, to the best of my
13 knowledge, the document would have been reviewed,
14 and had the loan been modified, the modified
15 information would have been put into our system.
16 BY MR. WESTBROOK:
17 Q. And it's your understanding that any modified
18 information contained in this document was not
19 put into CMS's system?
20 A. To the best of my knowledge, yes.
21 Q. Turning to the second to last page, it's numbered
22 1728, looks like there are two signature lines,
23 right?
24 A. Correct.
25 Q. One for CitiMortgage, Inc., and one for Anthony

Page 41

1 Q. Do you know how they came to that conclusion, how
2 CMS came to that conclusion?
3 A. My understanding would be that this agreement
4 hasn't been signed by CitiMortgage and the
5 final -- the terms and modifications were not
6 transmitted to CMS as such.
7 Q. Do you have an understanding as to whether apart
8 from the initial load of documents and servicing
9 information from CitiMortgage to CMS regarding
10 this loan if there were any communications
11 between CMS and CitiMortgage about the 2013
12 modification or proposed modification?
13 MS. LAPIN: I thought it was asked and
14 answered, but go ahead and answer.
15 MR. WESTBROOK: I think I asked about
16 the lawsuit before.
17 MS. LAPIN: Maybe that was the
18 distinction.
19 THE WITNESS: I'm unaware of any
20 communication.
21 MS. LAPIN: This one was just about a
22 mod?
23 MR. WESTBROOK: Right.
24 BY MR. WESTBROOK:
25 Q. We just looked at the signature page on this, and

<p style="text-align: right;">Page 42</p> <p>1 I'll ask you to look back at it again. I</p> <p>2 apologize. It's page 1728. We saw that there</p> <p>3 appears to be no signature above the</p> <p>4 CitiMortgage, Inc., line, right?</p> <p>5 A. That's correct.</p> <p>6 Q. Have you seen any version of this document that</p> <p>7 shows a signature in that area?</p> <p>8 A. Not to my recollection, no.</p> <p>9 MS. LAPIN: For CitiMortgage?</p> <p>10 MR. WESTBROOK: For CitiMortgage.</p> <p>11 MS. LAPIN: I think you and I have had</p> <p>12 many discussions about that. Off the record.</p> <p>13 (Discussion off the record.)</p> <p>14 (Exhibit 6 marked.)</p> <p>15 BY MR. WESTBROOK:</p> <p>16 Q. I'm handing you what's been marked Exhibit 6.</p> <p>17 This document has a whole bunch of recording</p> <p>18 information and stamps at the top. I'll ask you</p> <p>19 to just ignore those for the time being.</p> <p>20 But it bears the caption, "Anthony A.</p> <p>21 Macholtz and Dena G. Macholtz, plaintiffs, versus</p> <p>22 CitiMortgage, Inc., defendants." Do you see</p> <p>23 that?</p> <p>24 A. Yes.</p> <p>25 Q. The title of the document, which is close to the</p>	<p style="text-align: right;">Page 43</p> <p>1 bottom of the page, it says, "Stipulated Order in</p> <p>2 Recordable Form Setting Aside Foreclosure Sale</p> <p>3 and Rescinding Sheriff's Deed." Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Is it your understanding that this document would</p> <p>6 have come to CMS from CitiMortgage when CMS</p> <p>7 became the servicer of the Macholtzs' loan?</p> <p>8 A. To the best of my knowledge, we would have</p> <p>9 received it as part of the transfer file.</p> <p>10 Q. I'll ask you to go to the following page. The</p> <p>11 last paragraph before the date and signature, it</p> <p>12 says, "It is further ordered that plaintiff,</p> <p>13 Anthony Macholtz, hereby reaffirms and restates</p> <p>14 the terms and conditions on the original note and</p> <p>15 mortgage executed on or about September 1, 2005,</p> <p>16 which mortgage was recorded on or around</p> <p>17 October 4, 2005, at the Berrien County Register</p> <p>18 of Deeds at liber 2651, page 1406, except as</p> <p>19 modified, pursuant to the parties' loan</p> <p>20 modification agreement entered as of December 26,</p> <p>21 2012, and effective as of January 1, 2013, which</p> <p>22 is current, remains in full force and effect."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. This appears to refer to the document we were</p>
<p style="text-align: right;">Page 44</p> <p>1 just looking at, Exhibit 5; is that fair?</p> <p>2 MS. LAPIN: Objection. Form,</p> <p>3 foundation.</p> <p>4 THE WITNESS: It does appear to refer</p> <p>5 to that document.</p> <p>6 BY MR. WESTBROOK:</p> <p>7 Q. It's the same date, so it says, "Entered</p> <p>8 December 26, 2012, effective January 1, 2013."</p> <p>9 That's consistent with what we saw in Exhibit 5,</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. Given the existence of this court order, is it</p> <p>13 your understanding that Exhibit 5, the</p> <p>14 modification reflected there, needed to be signed</p> <p>15 by CitiMortgage to be effective?</p> <p>16 MS. LAPIN: I'm just going to object.</p> <p>17 Form, foundation. I don't think he can speak to</p> <p>18 that because he doesn't --</p> <p>19 MR. WESTBROOK: If he doesn't know, he</p> <p>20 doesn't know.</p> <p>21 THE WITNESS: I don't know.</p> <p>22 BY MR. WESTBROOK:</p> <p>23 Q. I think you testified hopefully about this</p> <p>24 already so I don't want to belabor it, but just</p> <p>25 to be clear, when we talked about comparing what</p>	<p style="text-align: right;">Page 45</p> <p>1 was in that paragraph that starts, "It is further</p> <p>2 ordered," the final full paragraph on the page</p> <p>3 Bates marked 297, you don't have any reason to</p> <p>4 believe that the modification referred to in that</p> <p>5 paragraph is something other than the one we saw</p> <p>6 in Exhibit 5, do you?</p> <p>7 MS. LAPIN: Just going to object.</p> <p>8 Form, foundation.</p> <p>9 THE WITNESS: It does appear to refer</p> <p>10 to Exhibit 5.</p> <p>11 (Exhibit 7 marked.)</p> <p>12 BY MR. WESTBROOK:</p> <p>13 Q. Handing you what's been marked as Exhibit 7, and</p> <p>14 I'll represent that it's two separate documents</p> <p>15 that are together here. First being another</p> <p>16 letter with the Dykema logo in the top left and</p> <p>17 then the next page appearing to be a check or</p> <p>18 payment instrument. Are you with me?</p> <p>19 A. Yes.</p> <p>20 Q. The first page which is the Dykema letter, it's</p> <p>21 addressed to CitiMortgage, subject line, Anthony</p> <p>22 Macholtz, and it says, "To Whom it May Concern,</p> <p>23 Enclosed please find the payment in the amount of</p> <p>24 \$5,242.77 from borrower, Anthony Macholtz, which</p> <p>25 constitute the amounts owed for February, March,</p>

Page 46

1 and April under the enclosed loan modification
2 agreement. Please contact me if you have any
3 questions." Sincerely, and then it's signed
4 again Mark J. Magyar, Dykema Gossett, PLLC. Did
5 I read that correctly?
6 A. Yes.
7 Q. The following page, which is not sequentially
8 Bates marked, the first page is 1843 and then the
9 next page is 1555. But the page marked 1555 does
10 seem to reflect the payment in the amount of
11 \$5,242.77; is that right?
12 A. Yes.
13 Q. In that payment instrument, which I think it's a
14 counter check from a bank, I'm not going to ask
15 you to testify to that, but it does say paid to
16 the order of CMI, right?
17 A. Yes.
18 Q. Do you know if these documents came through to
19 CMS from CitiMortgage as part of the initial
20 transfer of servicing?
21 A. To the best of my knowledge, they would have come
22 across with the transfer of file.
23 Q. Do you know if this document within CMS's file
24 system -- its system for keeping these loan
25 files, if this letter document that's the first

Page 48

1 that are related to it?
2 A. Yes.
3 Q. Is it links or attachments? What is it?
4 MS. LAPIN: Same objection as I've
5 stated before. Just in terms of, like, policy,
6 procedure, proprietary information, but you can
7 testify.
8 THE WITNESS: You know, it would be via
9 links, basically. It would click on a link and
10 pull up the documents.
11 BY MR. WESTBROOK:
12 Q. Do you know if there were any documents linked to
13 this page we're looking at that's marked 1843?
14 A. I'm unaware.
15 Q. Just for background, I'm not asking about this,
16 but I'm interested in the fact that it says, "The
17 enclosed loan modification agreement," where as
18 far as I can tell, the subsequent Bates numbers
19 don't show a loan modification agreement.
20 Let me ask you this question. You did
21 review this page prior to the deposition today?
22 A. I don't recall seeing it.
23 Q. All right. You may have, but you don't recall?
24 A. Correct.
25 Q. So I'm going to assume that means you also

Page 47

1 page would have been associated or is associated
2 with other documents?
3 And specifically I'm interested to know
4 whether there's a link or attachment between the
5 document like this and the things that it refers
6 to, the check, the modification agreement that
7 are referred to in the letter.
8 MS. LAPIN: I'm just going to object to
9 form.
10 MR. WESTBROOK: I'm hoping he can just
11 help me out on this.
12 MS. LAPIN: I think I know what you're
13 saying, but what I think may not matter.
14 MR. WESTBROOK: Just walk through a
15 scenario. I can make it easier.
16 MS. LAPIN: That's okay to --
17 MR. WESTBROOK: I think I can make it
18 easier.
19 BY MR. WESTBROOK:
20 Q. Is there a means of pulling up a document like
21 this within CMS's system? Could you go on a CMS
22 computer or terminal and pull up this document?
23 A. Yes.
24 Q. If you were looking at this document in the
25 system, would there be a way to view documents

Page 49

1 wouldn't recall seeing a modification agreement
2 that's referred to in it?
3 A. Possibly not.
4 Q. I'm going to ask you to do a little arithmetic
5 here and bear with me. The amount \$5,242.77, it
6 says in this document that that reflects payments
7 for three months. You recall that. If we divide
8 up that amount \$5,242.77, do you know what number
9 that calculates out to?
10 A. Not without a calculator.
11 Q. Would it seem correct that the amount of
12 \$5,242.77 divided by three comes to \$1,747.59?
13 That's the number I'm reading from Exhibit 5.
14 MS. LAPIN: I guess I'll object on the
15 grounds that math would speak for itself.
16 THE WITNESS: It sounds approximately
17 correct.
18 MR. WESTBROOK: Attorneys aren't the
19 best at math, but technology is wonderful.
20 BY MR. WESTBROOK:
21 Q. Do you have any reason to believe that the
22 payment that's referred to in Exhibit 7, that
23 \$5,242.77, wasn't made by Anthony Macholtz?
24 A. I have no reason to believe that.
25 Q. Do you have any reason to believe CitiMortgage

<p style="text-align: right;">Page 50</p> <p>1 didn't receive that payment?</p> <p>2 A. No.</p> <p>3 Q. Do you have any reason to believe that</p> <p>4 CitiMortgage did not process that payment and</p> <p>5 apply it to the loan account?</p> <p>6 A. No.</p> <p>7 Q. Do you know if they did? Do you know if</p> <p>8 CitiMortgage did process the payment and apply it</p> <p>9 to the loan account?</p> <p>10 A. To the best of my knowledge, it was processed and</p> <p>11 applied.</p> <p>12 Q. Now, if the modification agreement that we looked</p> <p>13 at in Exhibit 5 were valid, I understand that</p> <p>14 it's CMS position that it wasn't, but if it were</p> <p>15 valid and the first three months' payments were</p> <p>16 made under the agreement for February, March, and</p> <p>17 April of 2013, then the modified loan would have</p> <p>18 been current as of beginning of May of 2013,</p> <p>19 right?</p> <p>20 MS. LAPIN: Just going to object.</p> <p>21 Form, foundation, calls for speculation. Could</p> <p>22 call for a legal conclusion as well.</p> <p>23 THE WITNESS: Can I have a minute to</p> <p>24 refer back to the prior exhibit?</p> <p>25 BY MR. WESTBROOK:</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Of course.</p> <p>2 A. I'm sorry, would you mind repeating the question?</p> <p>3 Q. If the modification agreement were valid in</p> <p>4 Exhibit 5 and the first three months' payments</p> <p>5 were made under that agreement for February,</p> <p>6 March, and April of 2013, the modified loan would</p> <p>7 have been current as of the beginning of May of</p> <p>8 2013, right?</p> <p>9 MS. LAPIN: Same objection. Form,</p> <p>10 foundation, calls for speculation. It also could</p> <p>11 call for a legal conclusion and assumes -- you</p> <p>12 said --</p> <p>13 MR. WESTBROOK: You said your</p> <p>14 objection.</p> <p>15 THE WITNESS: To the best of my</p> <p>16 knowledge, that would be correct, provided any</p> <p>17 extraneous matters have been taken care of.</p> <p>18 MR. WESTBROOK: Understood.</p> <p>19 BY MR. WESTBROOK:</p> <p>20 Q. Do you know if CitiMortgage treated the loan as</p> <p>21 current as of May 1st, 2013?</p> <p>22 A. I don't know.</p> <p>23 Q. As you sit here now, and we'll look into</p> <p>24 documents on this, but as you sit here now, do</p> <p>25 you know if CMS's records show that the loan was</p>
<p style="text-align: right;">Page 52</p> <p>1 current as of May 1st of 2014?</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. They don't show that?</p> <p>4 A. As far as I can recall.</p> <p>5 Q. During the time frame of the transfer of the</p> <p>6 servicing to CMS from CitiMortgage on this loan,</p> <p>7 did CMS have any mechanism for changing the loan</p> <p>8 parameters provided by a predecessor servicer</p> <p>9 that CMS discovered that the provided parameters</p> <p>10 were incorrect?</p> <p>11 MS. LAPIN: Form, foundation. Also</p> <p>12 policy, procedure. Possible proprietary</p> <p>13 information.</p> <p>14 THE WITNESS: I don't know.</p> <p>15 (Exhibit 8 marked.)</p> <p>16 BY MR. WESTBROOK:</p> <p>17 Q. I'm handing you Exhibit 8. Appears to be in the</p> <p>18 form of a computer printout of some sort; is that</p> <p>19 fair?</p> <p>20 A. Yes.</p> <p>21 Q. Date at the top of March 12, 2019, top right</p> <p>22 there, right?</p> <p>23 A. That's correct.</p> <p>24 Q. I assume this is a form of document that you're</p> <p>25 familiar with?</p>	<p style="text-align: right;">Page 53</p> <p>1 A. Yes.</p> <p>2 Q. What is it?</p> <p>3 A. This is the -- let's see. The servicing notation</p> <p>4 history of Carrington.</p> <p>5 Q. This is a report or a print-off that comes from a</p> <p>6 CMS computerized system?</p> <p>7 A. Yes.</p> <p>8 Q. The servicing system?</p> <p>9 A. Correct.</p> <p>10 Q. Is there a name for the servicing software?</p> <p>11 MS. LAPIN: I'm just going to object on</p> <p>12 the proprietary, on that ground.</p> <p>13 THE WITNESS: Yes. It's known by</p> <p>14 various names. Fiserve, Sagent.</p> <p>15 BY MR. WESTBROOK:</p> <p>16 Q. It's not something that was developed by CMS;</p> <p>17 it's a commercially available product?</p> <p>18 A. Yes.</p> <p>19 Q. First page it's marked No. 28. Close to the top</p> <p>20 -- well, first we'll go through some of this</p> <p>21 identification information.</p> <p>22 It has the names Anthony A. Macholtz</p> <p>23 and Dena G. Macholtz, right?</p> <p>24 A. Correct.</p> <p>25 Q. It has an address underneath of 6140 28th Street,</p>

Page 54

1 which I'll represent to you is my firm's address,
2 but then next to it on the right-hand side under
3 property it has that 1886 Russell Road, Baroda,
4 address, right?
5 A. That's correct.
6 Q. Underneath that on the left, there's a column
7 labeled, "Dates," right?
8 A. Correct.
9 Q. Has a paid to date of August 1st of 2009, right?
10 A. Yes.
11 Q. That reflects that according to CMS's -- the
12 information in CMS's servicing system, that is
13 the date this loan was paid up to, right?
14 A. Yes.
15 Q. And then it says, "Next due. Apparently the
16 following month, September 1st, 2009, right?
17 A. That's correct.
18 Q. It reflects a last payment date of November 22,
19 2013; is that fair?
20 A. Yes.
21 Q. Then it says, "Audit DT, January 11, 2017,"
22 right?
23 A. Yes.
24 Q. I assume that means audit date?
25 A. That would be a fair assumption.

Page 56

1 A. I don't remember seeing one, no.
2 Q. Have you seen audit reports with respect to any
3 other loan files?
4 A. No.
5 Q. So would you know what one looked like?
6 A. I would think with my experience if I saw one, I
7 would know by its contents what it would be.
8 Q. What type of information would you expect to see
9 on an audit report?
10 A. I would expect to see loan balances. Basically
11 this information when the loan is paid, two
12 previous payments, things like that, interest
13 rates.
14 Q. And would you expect to find something like
15 potential conflicts in the documents or red flags
16 or anything along those lines in an audit report
17 if those conditions existed within the file?
18 A. I'm not sure. It would be speculation.
19 Q. Looks like there is some information on this
20 first page that's blacked out. Some of it I can
21 tell what it is. For example, upper right it
22 says, "History for Account," and my assumption
23 would be the following information that's blacked
24 out would be the actual account number. Is that
25 fair to say?

Page 55

1 Q. Is the audit the same procedure that we discussed
2 earlier in the deposition of the process of CMS
3 reviewing a file coming over from a predecessor?
4 A. To the best of my knowledge, yes.
5 Q. Do you know if CMS has a standard practice of
6 creating an audit report as a result of its
7 initial review of a loan file that comes in from
8 a predecessor servicer?
9 MS. LAPIN: What was that question?
10 MR. WESTBROOK: I'm talking about the
11 audit. There's an audit date there, and the
12 question is whether there was a standard practice
13 at CMS of generating an audit report in
14 connection with receiving a file from a
15 predecessor servicer.
16 MS. LAPIN: I'll have my usual
17 objection for policy and procedure proprietary.
18 THE WITNESS: I would think the fact
19 that an audit date has been generated would lead
20 to an actual assumption that there are policies
21 and procedures in place for that.
22 BY MR. WESTBROOK:
23 Q. Have you seen or do you remember having seen an
24 audit report with respect to this Macholtz loan
25 file?

Page 57

1 A. Yes. It would be the actual Carrington account
2 number to be specific I would think.
3 Q. I'm not asking you to reveal what the precise
4 information is on the stuff that's blacked out,
5 the rest of the information that's blacked out on
6 the first page, but I'm interested to know what
7 type of information it is, if you know, or can
8 provide any insight on that.
9 MS. LAPIN: Go off the record.
10 (Discussion off the record.)
11 MS. LAPIN: Personal information, phone
12 numbers, somebody's name sometimes. If there was
13 something with counsel, that would have been
14 stuff that I would have -- personal information
15 more likely.
16 THE WITNESS: Yeah.
17 BY MR. WESTBROOK:
18 Q. I'm sorry, could you remind me what the name was
19 you used for this document?
20 A. This is the servicing notes history.
21 Q. Is it fair to say the servicing notes history,
22 you would expect servicing notes history to
23 include things like communications between the
24 borrower and CMS, right?
25 MS. LAPIN: Object. Form, foundation,

<p style="text-align: right;">Page 58</p> <p>1 calls for speculation.</p> <p>2 THE WITNESS: For the most part, yes.</p> <p>3 BY MR. WESTBROOK:</p> <p>4 Q. Have you reviewed this document before the</p> <p>5 deposition today?</p> <p>6 A. Yes.</p> <p>7 Q. I'm going to stip a lot of this content, which</p> <p>8 I'm sure will be a relief to everybody.</p> <p>9 MS. LAPIN: I was going to say bummer;</p> <p>10 it's so enticing.</p> <p>11 MR. WESTBROOK: I've had cases where</p> <p>12 I've had to go through just page after page.</p> <p>13 MS. LAPIN: Depends on what the issue</p> <p>14 is. I have one, too, where there were calls</p> <p>15 every single day for, like, two months about an</p> <p>16 issue. And, yeah, I agree, it depends on the</p> <p>17 issue.</p> <p>18 BY MR. WESTBROOK:</p> <p>19 Q. I would like you to turn to the page that's</p> <p>20 numbered 64. There are codes. I hope you can</p> <p>21 tell me what it means. I'm looking close to the</p> <p>22 middle of the page. On the left-hand column it</p> <p>23 says 083118 and then under the transaction amount</p> <p>24 it says T:00997 and then the beginning of the</p> <p>25 line that I'm looking at says IBTT Dena G.</p>	<p style="text-align: right;">Page 59</p> <p>1 Macholtz. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Does IB stand for inbound telephone call?</p> <p>4 A. Typically, yes.</p> <p>5 Q. What about TT, what does that mean?</p> <p>6 A. Talked to, typically.</p> <p>7 Q. I see. All right.</p> <p>8 So the rest of that line is Dena G.</p> <p>9 Macholtz. Gave last four of SS. Add contact</p> <p>10 info, not updated. C & D on file. Gave payoff</p> <p>11 amount XER to SSD. She is following up on</p> <p>12 RIEOCMO.</p> <p>13 There's some codes or abbreviations</p> <p>14 that I'm not familiar with there that I hope you</p> <p>15 can help me with.</p> <p>16 C & D, what does that stand for?</p> <p>17 MS. LAPIN: I'm just going to just</p> <p>18 object with the understanding that it could --</p> <p>19 you know, privilege proprietary information.</p> <p>20 MR. WESTBROOK: If it is.</p> <p>21 BY MR. WESTBROOK:</p> <p>22 Q. What does C & D stand for?</p> <p>23 A. Typically, C & D stands for cease and desist.</p> <p>24 Q. Then it says, "Gave payoff amount XER." Do you</p> <p>25 know what XER would refer to?</p>
<p style="text-align: right;">Page 60</p> <p>1 A. Again, typically that would notate transfer.</p> <p>2 Q. What about SSD?</p> <p>3 A. I don't know what SSD is.</p> <p>4 Q. Do you know if it's a department within CMS?</p> <p>5 A. It would be a natural assumption, but I don't</p> <p>6 know.</p> <p>7 Q. It says she is following up on RIEOCMO. Any</p> <p>8 insights there?</p> <p>9 A. Do you mind if we just read forward and back in</p> <p>10 the notes because that could indicate what SSD</p> <p>11 means.</p> <p>12 Q. Go ahead. If that may be helpful, please.</p> <p>13 A. My apologies for taking your time, but I can't</p> <p>14 see at this point any indications as to what SSD</p> <p>15 is, and I'm not about to hazard a guess.</p> <p>16 Q. Understood. Any insights on the RIEOCMO at the</p> <p>17 end of that line?</p> <p>18 A. RI typically would notate reinstatement. The</p> <p>19 EOCMO, I don't know.</p> <p>20 Q. This entry seems to reflect that Dena Macholtz</p> <p>21 called CMS on the date August 31 of 2018, right?</p> <p>22 A. Yes.</p> <p>23 Q. That would be a little over five years after the</p> <p>24 divorce from Anthony Macholtz, wouldn't it?</p> <p>25 A. That's correct, yes.</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. Do you know why Dena was still listed as a</p> <p>2 borrower at CMS?</p> <p>3 A. No.</p> <p>4 Q. Is there an indication or do you otherwise know</p> <p>5 why Dena Macholtz was allowed to speak to CMS</p> <p>6 about the loan?</p> <p>7 MS. LAPIN: Objection. Calls for</p> <p>8 speculation.</p> <p>9 THE WITNESS: No, I don't know.</p> <p>10 BY MR. WESTBROOK:</p> <p>11 Q. Can you tell from this entry what information was</p> <p>12 provided to Dena in connection with this contact?</p> <p>13 A. On the entry that we were just speaking where it</p> <p>14 says, "Inbound, talked to Dena G. Macholtz," or</p> <p>15 are you referring to a different entry?</p> <p>16 Q. That entry, the one you have started reading</p> <p>17 there.</p> <p>18 A. It looks like the information given would have</p> <p>19 been the payoff amount.</p> <p>20 Q. All right. Can you tell from this page if there</p> <p>21 were any changes made to the loan account as a</p> <p>22 result of that contact?</p> <p>23 A. From the entirety of the notes within this page?</p> <p>24 Q. Yes.</p> <p>25 A. I don't see any alterations to the account were</p>

<p style="text-align: right;">Page 62</p> <p>1 made.</p> <p>2 Q. All right.</p> <p>3 A. From my review of this one page.</p> <p>4 Q. I'd like you to flip to the page that's numbered</p> <p>5 68, please. I'm going to ask you to help me</p> <p>6 interpret the several entries that start with the</p> <p>7 very bottom one on this page. Post date</p> <p>8 10/10/18. Transaction amount, column T,</p> <p>9 column -- or colon 07534. Starts with</p> <p>10 IB-inbound, borrower intent, keep property. See</p> <p>11 that, right?</p> <p>12 A. The very last two lines?</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. The IB, is it your understanding that that would</p> <p>16 refer to an inbound telephone call?</p> <p>17 A. That's my understanding, yes.</p> <p>18 Q. Now, the following page, can you tell if this is</p> <p>19 a separate -- information about a separate</p> <p>20 contact or if it's a continuation of that entry</p> <p>21 from the prior page?</p> <p>22 A. It would suggest that this is a separate item.</p> <p>23 The transaction amount, as it calls it, is</p> <p>24 actually what we call a teller number, which is</p> <p>25 an employee I.D. number. And the one at the</p>	<p style="text-align: right;">Page 63</p> <p>1 bottom of page 68 is different to the one at the</p> <p>2 top of page 69, so it would suggest this is a</p> <p>3 separate conversation.</p> <p>4 Q. That's helpful.</p> <p>5 Moving down a couple of lines, we're on</p> <p>6 the page that's numbered 69. I'm looking at the</p> <p>7 line that starts, "IBC XFRD to me already</p> <p>8 verified." Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Then it continues, "BWR 2 called in asking about</p> <p>11 FC sale date and TAD offered to XFR to assigned</p> <p>12 rep and she declined." Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Am I right in assuming that this is discussing an</p> <p>15 inbound telephone call?</p> <p>16 A. That's how it would appear, yes.</p> <p>17 Q. And then XFRD would suggest to me that whoever is</p> <p>18 making the notation is indicating that the call</p> <p>19 was transferred to him or her. Is that a fair</p> <p>20 assumption?</p> <p>21 A. Yes.</p> <p>22 Q. It says, "Already verified." Does that refer to</p> <p>23 the identity of the caller having already been</p> <p>24 verified?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 64</p> <p>1 Q. All right. BWR 2, is that short for borrower 2?</p> <p>2 A. That's how we understand it or I would understand</p> <p>3 it, yes.</p> <p>4 Q. The co-borrower?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know if the co-borrower on this account</p> <p>7 was Dena Macholtz?</p> <p>8 A. To my knowledge, the co-borrower is Dena G.</p> <p>9 Macholtz.</p> <p>10 Q. Is there a notation indicating who made the note</p> <p>11 here?</p> <p>12 A. Who made the note, that's typically identified by</p> <p>13 the T:05223. Like I said previously, that's</p> <p>14 identifiable as the teller number, which is an</p> <p>15 employee I.D.</p> <p>16 Q. All right. Another initialism that I'm sure we</p> <p>17 can understand but I wanted you to verify, it</p> <p>18 says, "BWR 2 called in asking about FC sale</p> <p>19 date." FC refers to foreclosure, right?</p> <p>20 A. Yes.</p> <p>21 Q. Now, at the end of that entry it says, "Offered</p> <p>22 to XFR to assign rep and she declined," and then</p> <p>23 after that it says "-JDW-CA." Do you know what</p> <p>24 that entry, the "JDW-CA" means?</p> <p>25 A. I cannot give you a definitive answer, but</p>	<p style="text-align: right;">Page 65</p> <p>1 sometimes the rep who is taking the call will put</p> <p>2 their initials in the location, so it's probably</p> <p>3 someone with the initial JDW in California. That</p> <p>4 would have been my assumption.</p> <p>5 Q. Do you know, have you made any effort to contact</p> <p>6 anyone who spoke directly with the borrowers in</p> <p>7 this account?</p> <p>8 A. No, I haven't.</p> <p>9 Q. Do you know if anyone else at CMS has done that</p> <p>10 in response to this lawsuit?</p> <p>11 A. I don't have any knowledge of that.</p> <p>12 Q. If you could turn now to the page that's numbered</p> <p>13 81. Here in the top of the page, there's an</p> <p>14 entry that's dated January 29 of 2019 and then</p> <p>15 the teller code is 9863. Appears to be --</p> <p>16 following that, it looks like the date again,</p> <p>17 1/29/2019. Are you with me?</p> <p>18 A. Yes.</p> <p>19 Q. It says, "Acct review regarding 2013 loan</p> <p>20 modification offer: The borrower and their</p> <p>21 counsel didn't perform and enter into the</p> <p>22 modification of 2013 as per the prior history</p> <p>23 notes. The borrower went through a divorce and</p> <p>24 only he signed where the wife was supposed to</p> <p>25 sign too. The account was in litigation and the</p>

<p style="text-align: right;">Page 66</p> <p>1 borrower's counsel never provided the required</p> <p>2 divorce QCB, hence the 2013 mod was canceled,</p> <p>3 period, BA. Did I read that correctly?</p> <p>4 A. Yes.</p> <p>5 Q. Says account review or acct review at the</p> <p>6 beginning, right?</p> <p>7 A. Yes.</p> <p>8 Q. Does that refer to a process at CMS?</p> <p>9 MS. LAPIN: Which one are you on?</p> <p>10 Which one did you just say?</p> <p>11 THE WITNESS: Eighty-one.</p> <p>12 MS. LAPIN: I know I'm on 81, but I</p> <p>13 guess I'm looking at the ...</p> <p>14 MR. WESTBROOK: The T number is 9863.</p> <p>15 MS. LAPIN: Oh, okay.</p> <p>16 THE WITNESS: It's merely referring to</p> <p>17 a review of the account which are the result of</p> <p>18 various reasons that I'm not privy to.</p> <p>19 BY MR. WESTBROOK:</p> <p>20 Q. Do you know if the person doing that review would</p> <p>21 have been the same person generating this entry?</p> <p>22 A. Yes. I would expect it to be the same person who</p> <p>23 typed the entry.</p> <p>24 Q. Do you know what that person's job title would</p> <p>25 have been?</p>	<p style="text-align: right;">Page 67</p> <p>1 A. No.</p> <p>2 Q. Can you tell what triggered the person making</p> <p>3 this entry to review this 2013 loan modification?</p> <p>4 A. In my review of the many documents that have been</p> <p>5 presented to me before this hearing, I was made</p> <p>6 aware of a communication that included this</p> <p>7 between CMS and foreclosure counsel at the time,</p> <p>8 so this was probably made at or around the time</p> <p>9 of that communication.</p> <p>10 Q. All right. Do you have an understanding of what</p> <p>11 the goal of the account review was?</p> <p>12 A. Purely from what is written, it would be to</p> <p>13 review, for want of a better phrase, what went on</p> <p>14 during the 2013 loan modification review.</p> <p>15 Q. Do you know what information was reviewed?</p> <p>16 A. I can only speak to what we see here and what I</p> <p>17 recall being referred to within the other</p> <p>18 communication, and that's the borrowers were due</p> <p>19 to provide certain documents to complete the</p> <p>20 modification, which as far as I'm aware, they</p> <p>21 never presented those to complete the</p> <p>22 modification.</p> <p>23 Q. Are you referring to communications between</p> <p>24 CitiMortgage and the borrowers?</p> <p>25 A. Yes. CitiMortgage and I believe the borrowers'</p>
<p style="text-align: right;">Page 68</p> <p>1 counsel at the time.</p> <p>2 Q. Those are documents you've seen?</p> <p>3 A. I've seen documents referring to that</p> <p>4 communication.</p> <p>5 Q. All right. Is that to say you haven't seen the</p> <p>6 communications themselves?</p> <p>7 A. From memory, the document that I'm referring to</p> <p>8 contained an excerpt of notes from Citi's</p> <p>9 notation file at that time, which indicated the</p> <p>10 communication. I know it's kind of a long-winded</p> <p>11 way of explaining.</p> <p>12 Q. I appreciate that. Precision is the goal.</p> <p>13 Maybe you know this and maybe you</p> <p>14 don't, but I'll just ask you, looking at that</p> <p>15 same entry that we've been talking about, it says</p> <p>16 the borrower and their counsel didn't perform and</p> <p>17 enter into the modification of 2013 as per the</p> <p>18 prior history notes. What I'm wondering is if</p> <p>19 you have an understanding of what that phrase</p> <p>20 "prior history notes" refers to.</p> <p>21 A. I would think that it is referring to the notes</p> <p>22 from Citi.</p> <p>23 Q. Okay. Were the notes from CitiMortgage something</p> <p>24 that you reviewed in connection with preparation</p> <p>25 for today's deposition?</p>	<p style="text-align: right;">Page 69</p> <p>1 A. To an extent. I wouldn't say that I reviewed</p> <p>2 every single document, but I did give them a</p> <p>3 cursory glance.</p> <p>4 Q. Do you recall seeing anything in those notes</p> <p>5 about borrower's counsel not providing required</p> <p>6 deed for the divorce?</p> <p>7 A. I don't remember.</p> <p>8 Q. Do you know if CMS's file for the loan reflects</p> <p>9 or contains a quitclaim deed from Dena to Anthony</p> <p>10 that was in CMS's file?</p> <p>11 A. I can't remember seeing one.</p> <p>12 (Exhibit 9 marked.)</p> <p>13 BY MR. WESTBROOK:</p> <p>14 Q. This document is marked Exhibit 9. It's</p> <p>15 actually, again, a series of documents, actually</p> <p>16 a series of copies of the same document. There's</p> <p>17 five pages. I'll represent to you that they are</p> <p>18 identical other than certain markings on them,</p> <p>19 markings and labels, but the title of it is</p> <p>20 quitclaim deed. And there's a signature line in</p> <p>21 the middle of the page that says "Dena Gail</p> <p>22 Macholtz." Do you see that on the first page</p> <p>23 there?</p> <p>24 A. Yes, I do.</p> <p>25 Q. And each of these pages, these five pages, has a</p>

<p style="text-align: right;">Page 70</p> <p>1 CMS/WILM Bates number on them, right?</p> <p>2 A. That's correct.</p> <p>3 Q. You recall seeing a copy of this document during</p> <p>4 your review of documents in connection with this</p> <p>5 deposition?</p> <p>6 A. Yes.</p> <p>7 Q. You do recall or you don't?</p> <p>8 A. Sorry. I don't recall actually seeing this</p> <p>9 document, no.</p> <p>10 Q. I'll just have you quickly flip back to the</p> <p>11 beginning of Exhibit No. 8, the servicing notes</p> <p>12 history.</p> <p>13 I wanted to move over a column from</p> <p>14 where we were looking before. There's the dates</p> <p>15 column that we talked about and then there's the</p> <p>16 current balances column. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And it shows a principal amount of \$135,314.46,</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. Then it looks like it shows an escrow deficiency</p> <p>22 of \$58,149.53. Did I read that right?</p> <p>23 A. Yes.</p> <p>24 Q. Does that reflect what CMS's servicing notes or</p> <p>25 servicing system showed for those amounts as of</p>	<p style="text-align: right;">Page 71</p> <p>1 the print date that's reflected on this document?</p> <p>2 A. That's what I would understand, yes.</p> <p>3 Q. And the print date is March 12, 2019, right?</p> <p>4 A. Correct.</p> <p>5 Q. Assuming the 2013 modification reflect the terms</p> <p>6 reflected in Exhibit 5 that we talked about quite</p> <p>7 a bit before. Assuming that were valid, CMS's</p> <p>8 accounting for loan as of March 12 of 2019 would</p> <p>9 have been wrong, right?</p> <p>10 MS. LAPIN: Objection. Form,</p> <p>11 foundation, calls for speculation, and I would</p> <p>12 say is against the facts in evidence but go ahead</p> <p>13 and answer.</p> <p>14 THE WITNESS: Would you mind repeating</p> <p>15 the question?</p> <p>16 BY MR. WESTBROOK:</p> <p>17 Q. If the Exhibit 5, the terms of that were part of</p> <p>18 a valid modification agreement on this account,</p> <p>19 then CMS accounting for the loan would have been</p> <p>20 wrong as of March 12 of 2019, right?</p> <p>21 MS. LAPIN: Same objection.</p> <p>22 THE WITNESS: Obviously, doing the</p> <p>23 calculation accurately, the amount due appear to</p> <p>24 differ by a small amount. I don't have an</p> <p>25 explanation for that. It could have been within</p>
<p style="text-align: right;">Page 72</p> <p>1 that six-year period from the modification</p> <p>2 agreement if you want to say and March of 2019</p> <p>3 there may have been some adjustments within the</p> <p>4 loan itself that would have caused that</p> <p>5 difference.</p> <p>6 Q. I understand. I'm interested to know. So we've</p> <p>7 got a principal balance on Exhibit 8 showing of</p> <p>8 \$135,314 and change, right?</p> <p>9 A. Yes.</p> <p>10 Q. We have a principal balance or a new principal</p> <p>11 balance reflected on Exhibit 5 on page 1723 of</p> <p>12 \$194,401.23, right?</p> <p>13 A. 19440123.</p> <p>14 Q. Right. So if only a small amount of payments</p> <p>15 were made between 2013, beginning of 2013, and</p> <p>16 March of 2019, you wouldn't expect the principal</p> <p>17 balance to have gone down to \$135,314.43, right?</p> <p>18 MS. LAPIN: Based on the assumption</p> <p>19 that the loan modification was valid? That's</p> <p>20 what you're asking?</p> <p>21 MR. WESTBROOK: Yes.</p> <p>22 MS. LAPIN: Yeah. Which, again, I</p> <p>23 think his testimony was it wasn't, but -- so</p> <p>24 that's why I think the question is speculative.</p> <p>25 BY MR. WESTBROOK:</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. Let's approach it this way. A principal balance</p> <p>2 doesn't go down unless you make payments on the</p> <p>3 loan, right?</p> <p>4 A. That's my understanding, yes.</p> <p>5 Q. And escrow deficiency may go up as you don't make</p> <p>6 payments on the loan if there are escrows</p> <p>7 required to be paid to the servicer, right?</p> <p>8 A. Yes.</p> <p>9 Q. The document, the servicing notes history, does</p> <p>10 that document payments going out and coming in?</p> <p>11 A. I'm just looking through to see the contents of</p> <p>12 the exhibit. Typically, inbound and outbound</p> <p>13 payments are separately recorded in the</p> <p>14 transaction history. If, say, escrow payments,</p> <p>15 tax insurance, et cetera, would possibly have</p> <p>16 been notated in this, but the actual financial</p> <p>17 records would be in the transaction history.</p> <p>18 Q. The transaction history, that's a document that</p> <p>19 you've also reviewed in connection with your</p> <p>20 preparation for this deposition, I assume?</p> <p>21 A. Yes.</p> <p>22 Q. Do you recall if looking at the CMS transaction</p> <p>23 history if there's ever a time where the escrow</p> <p>24 deficiency was nonexistent and that the escrow</p> <p>25 account was at zero or some positive number?</p>

<p style="text-align: right;">Page 74</p> <p>1 A. I don't recall.</p> <p>2 Q. I'd like you to go ahead and turn to -- we're</p> <p>3 still in Exhibit 8, but the page that is numbered</p> <p>4 84.</p> <p>5 Very near the middle of the page dated</p> <p>6 February 28, 2019, and then the T number there is</p> <p>7 5341. Are you with me there?</p> <p>8 A. Yes.</p> <p>9 Q. It looks like there might be a phone number there</p> <p>10 that's blacked out. See I.D. Maybe caller I.D.?</p> <p>11 A. Yes.</p> <p>12 Q. It says Anthony A. Macholtz, a few other</p> <p>13 notations. It says, "BORR 1 called to ask what</p> <p>14 PO AMT WLD B if wanted to pay off loan." Am I</p> <p>15 correct in interpreting that to mean borrower 1</p> <p>16 called to ask what payoff amount would be if</p> <p>17 wanted to pay off the loan? PO would be payoff?</p> <p>18 A. That's my assumption, yes.</p> <p>19 Q. And then it says, "Trans to SSD for further</p> <p>20 help." Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. It looks from this note like CMS fielded a phone</p> <p>23 call from Anthony Macholtz on February 28 of</p> <p>24 2019, right?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. Appears the call was about a payoff, right?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know if Anthony Macholtz asked CMS for a</p> <p>4 redemption amount during that call?</p> <p>5 A. All I can refer to is actual notation within the</p> <p>6 line item which merely says that he asked for</p> <p>7 payoff amount.</p> <p>8 Q. Doesn't look like there's another notation</p> <p>9 following this what appears to be a transfer to</p> <p>10 someone else, right?</p> <p>11 A. Your question was again, sir?</p> <p>12 Q. I haven't seen and I'm wondering if you can</p> <p>13 confirm that there isn't a notation that reflects</p> <p>14 what happened after the transfer that's reflected</p> <p>15 here. It says, "Trans to SSD for further help.</p> <p>16 Do you see any other notation here or on the</p> <p>17 following pages that would reflect what was</p> <p>18 discussed after the transfer?</p> <p>19 A. Yeah. Obviously, referring to 022819, teller</p> <p>20 number 05341. Within that notation it says</p> <p>21 transfer to SSD, that I already established I'm</p> <p>22 not quite sure what that abbreviation is for</p> <p>23 further help.</p> <p>24 And then on page 85, if you go down</p> <p>25 kind of a fourth of the way down, teller I.D.</p>
<p style="text-align: right;">Page 76</p> <p>1 7503. In fact, that is the same person. No,</p> <p>2 sorry. SSD for further help.</p> <p>3 Teller 7503 is the notated inbound</p> <p>4 call, borrower, intent not available. Within</p> <p>5 that notation it has a transfer call to this new</p> <p>6 representative from the board.</p> <p>7 Q. I see. I see. I see what you're looking at here</p> <p>8 on page 85.</p> <p>9 About a quarter of the way down there,</p> <p>10 I'm looking at language that says, "Ordered</p> <p>11 payoff per customer's req, request, to be</p> <p>12 e-mailed to him. Would like to know amount</p> <p>13 needed to redeem. Asked if there were W/O</p> <p>14 options available. Advised only redemption since</p> <p>15 already went to FCL sale, right?</p> <p>16 A. Yes.</p> <p>17 Q. And then it says MPP TX 44439. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you have any idea what the MPPTX stands for?</p> <p>20 A. I have no clue.</p> <p>21 Q. Could it be someone with the initials MPP in</p> <p>22 Texas?</p> <p>23 A. Very possibly, but I don't know.</p> <p>24 Q. As you sit here today, you don't know who that</p> <p>25 person is that made that note?</p>	<p style="text-align: right;">Page 77</p> <p>1 A. Not a clue.</p> <p>2 Q. Is that something you could find out if you had</p> <p>3 access to CMS systems?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know if CMS told Anthony Macholtz what the</p> <p>6 redemption amount of the property was during that</p> <p>7 call?</p> <p>8 A. There's no indication as to an amount being</p> <p>9 disclosed within that conversation.</p> <p>10 Q. Have you heard a recording of that phone call?</p> <p>11 A. Yes.</p> <p>12 Q. Was that provided to you by your counsel?</p> <p>13 A. Yes.</p> <p>14 Q. All right. Had you heard it prior to being</p> <p>15 provided to you by your counsel?</p> <p>16 A. No.</p> <p>17 Q. Did you hear in the recording a person stating</p> <p>18 that the redemption amount be the same as the</p> <p>19 payoff amount?</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you know what the payoff amount would have</p> <p>22 been at this time that February 28th of 2019?</p> <p>23 A. No. It was mentioned within the call that it</p> <p>24 would be -- the borrower requested it be e-mailed</p> <p>25 to him, so it's not something that we'd be privy</p>

<p style="text-align: right;">Page 78</p> <p>1 to immediately, because there's different amounts 2 involved, attorney fees and stuff.</p> <p>3 Q. Do you know if a payoff was e-mailed to him by 4 CMS?</p> <p>5 A. On page 86 about halfway down, there's a notation 6 3/7/19, teller number 09540, and it's a redacted 7 e-mail to TonyM@redactedAnthonyAMacholtz. I 8 would assume that that would have been the payoff 9 e-mail being sent to the borrower.</p> <p>10 Q. All right. Looks like there's some codes that 11 are on the following couple lines 035 done 12 March 7, 2019, by GLR9540. Do you know if that 13 number 035 reflects some kind of standard form 14 that's used by CMS or something else?</p> <p>15 A. It would. I don't know what the individual code 16 is, but I would refer to something.</p> <p>17 Q. Like a document or form or something like that?</p> <p>18 A. I'm not entirely sure.</p> <p>19 Q. Do you know -- it says TSK TYP. Maybe task type?</p> <p>20 A. Yes.</p> <p>21 Q. And then 173-P0Q request, do you know what that 22 means?</p> <p>23 A. I don't know the individual task number 173. 24 PLQ, I would assume, means payoff quote, but I 25 don't know.</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. And then after that it says -N. Do you know what 2 means?</p> <p>3 A. No.</p> <p>4 Q. I'm sure you're aware that prior to February of 5 2019, which was the date of this entry, CMS 6 caused a foreclosure sale to take place with 7 respect to the Macholtz property, right?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know what CMS bid at the sheriff sale of 10 this property?</p> <p>11 A. No. I don't recall. 12 (Exhibit 10 marked.)</p> <p>13 BY MR. WESTBROOK:</p> <p>14 Q. Handing you a document that's marked Exhibit 10. 15 This looks to be on letterhead of Schneiderman & 16 Sherman law firm. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And at the top it looks like it's entitled, 19 "Notice of Sale and Pending Foreclosure." Are 20 you with me?</p> <p>21 A. Yes.</p> <p>22 Q. Dated August 9 of 2018, right?</p> <p>23 A. Yes.</p> <p>24 Q. And addressed apparently to Anthony A. Macholtz 25 and Dena G. Macholtz, right?</p>
<p style="text-align: right;">Page 80</p> <p>1 A. That's correct.</p> <p>2 Q. Again, in the subject line it refers to the 3 property that's at issue, 1886 Russell Road, 4 Baroda, Michigan, right?</p> <p>5 A. Yes.</p> <p>6 Q. The language there on the letter says, "In 7 accordance with the provisions of the mortgage, 8 we have enclosed a copy of the notice of sale 9 publication on the above-captioned property," 10 right?</p> <p>11 A. Yes.</p> <p>12 Q. And then it appears that the enclosure that goes 13 with that letter is the following page entitled, 14 "Short Foreclosure Notice, Berrien County." Is 15 that fair?</p> <p>16 A. That's fair.</p> <p>17 Q. Is this a document or have you reviewed these 18 documents before?</p> <p>19 A. Yes.</p> <p>20 Q. Now, as of the date of the letter, the enclosure 21 letter, August 9, 2018, CMS had authorized the 22 Schneiderman law firm to conduct a foreclosure 23 sale of 1886 Russell Road, right?</p> <p>24 A. To the best of my knowledge, yes.</p> <p>25 Q. And in the notice itself that is reflected on</p>	<p style="text-align: right;">Page 81</p> <p>1 page number 338, it reflects that at the time of 2 the notice, August 2018, CMS claimed that the 3 debt amount owed was \$278,457.17. Is that right?</p> <p>4 A. Yes, that's what was within the notice.</p> <p>5 Q. Now, a few months later, February 28 of 2019, 6 would the payoff amount for the loan be 7 \$278,457.17 or something more than that?</p> <p>8 MS. LAPIN: Objection. Form, 9 foundation, calls for speculation.</p> <p>10 BY MR. WESTBROOK:</p> <p>11 Q. Assuming no payments have been made?</p> <p>12 A. I'm sorry, I was just reading the notice.</p> <p>13 MS. LAPIN: If you can't speak to the 14 notice, that's fine.</p> <p>15 THE WITNESS: I can't speak to the 16 notice. I don't know.</p> <p>17 BY MR. WESTBROOK:</p> <p>18 Q. What I'm trying to understand is what the payoff 19 amount -- what the neighborhood of the payoff 20 amount would have been in February of 2019.</p> <p>21 MS. LAPIN: If he knows.</p> <p>22 THE WITNESS: I don't know.</p> <p>23 BY MR. WESTBROOK:</p> <p>24 Q. Is that something that you could roughly estimate 25 using the information that's shown on Exhibit 8,</p>

<p style="text-align: right;">Page 82</p> <p>1 which is dated March 12 of 2019?</p> <p>2 A. No.</p> <p>3 Q. Adding up the principal balance that's reflected,</p> <p>4 plus the escrow deficiency, plus fees, would you</p> <p>5 expect that to get you close to payoff amount as</p> <p>6 of the date of this print-off?</p> <p>7 MS. LAPIN: Same objection.</p> <p>8 THE WITNESS: I don't know. It would</p> <p>9 be speculation. I don't know.</p> <p>10 BY MR. WESTBROOK:</p> <p>11 Q. What other amounts would be included in the</p> <p>12 payoff amount besides the principal balance,</p> <p>13 escrow deficiency? Well, I suppose there's</p> <p>14 interest in there too, but we could calculate</p> <p>15 that, couldn't we?</p> <p>16 A. Typically, it would be principal, interest, tax</p> <p>17 and insurance which would be within the escrow,</p> <p>18 attorney's fees, other associated costs. So I</p> <p>19 couldn't even guess at what it would be.</p> <p>20 Q. But certainly the payoff amount would not be less</p> <p>21 than the total of the principal, escrow</p> <p>22 deficiency, and fees?</p> <p>23 MS. LAPIN: I'm going to object.</p> <p>24 BY MR. WESTBROOK:</p> <p>25 Q. Right?</p>	<p style="text-align: right;">Page 83</p> <p>1 MS. LAPIN: Form, foundation, calls for</p> <p>2 speculation.</p> <p>3 THE WITNESS: Can you repeat the</p> <p>4 question?</p> <p>5 BY MR. WESTBROOK:</p> <p>6 Q. We know with certainty that the payoff amount</p> <p>7 would have to include the principal escrow</p> <p>8 deficiency and fees, right?</p> <p>9 A. Correct.</p> <p>10 Q. Wouldn't be less than the total of those things?</p> <p>11 A. No.</p> <p>12 (Exhibit 11 marked.)</p> <p>13 BY MR. WESTBROOK:</p> <p>14 Q. Handing you what I've marked as Exhibit 11.</p> <p>15 This, again, appears to be on the Schneiderman &</p> <p>16 Sherman law firm letterhead, dated October 9,</p> <p>17 2019. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know if these -- the following pages are</p> <p>20 pages that you reviewed in connection with your</p> <p>21 preparation for the deposition today?</p> <p>22 A. Yes, I did.</p> <p>23 Q. Can you characterize what they are, what they</p> <p>24 relate to?</p> <p>25 A. These are publication notices from Schneider &</p>
<p style="text-align: right;">Page 84</p> <p>1 Sherman memorializing the foreclosure sale by</p> <p>2 publication of the subject property.</p> <p>3 Q. All right. On the first page there, this looks</p> <p>4 like it's a communication to the Berrien County</p> <p>5 sheriff's office from Schneiderman & Sherman,</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. And if we didn't cover this before, I want to</p> <p>9 make sure it's clear. Schneiderman & Sherman was</p> <p>10 the law office engaged by CMS to conduct the</p> <p>11 foreclosure on the Macholtzs' property, right?</p> <p>12 A. That's my knowledge.</p> <p>13 Q. It says in the body, Enclosed please find a sale</p> <p>14 package for Thursday, October 11, 2018, for the</p> <p>15 above-referenced matter. Please contact Anna</p> <p>16 Graham at Detroit Legal News, provides a phone</p> <p>17 number, should a third party bid at the sale, and</p> <p>18 then it says the opening bid amount is \$150,000,</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. That indicates that the bid amount authorized by</p> <p>22 CMS was less than what CMS claimed the indebted</p> <p>23 to be, right?</p> <p>24 A. Yes.</p> <p>25 Q. Do you know if the Schneiderman law firm placed</p>	<p style="text-align: right;">Page 85</p> <p>1 that \$150,000 bid at the sheriff sale?</p> <p>2 MS. LAPIN: I'm just going to object,</p> <p>3 because that document doesn't address the sheriff</p> <p>4 sale.</p> <p>5 MR. WESTBROOK: I'm just asking if he</p> <p>6 knows. If he doesn't know, we can move on.</p> <p>7 THE WITNESS: I don't know.</p> <p>8 BY MR. WESTBROOK:</p> <p>9 Q. Do you recall reviewing the sheriff deed that was</p> <p>10 generated on October 11, 2018?</p> <p>11 A. The one contained within Exhibit 11?</p> <p>12 Q. No. I don't think that one is executed, is it?</p> <p>13 MS. LAPIN: Right, it's not.</p> <p>14 BY MR. WESTBROOK:</p> <p>15 Q. I can make the representation to you, though,</p> <p>16 that there is an executed version of this</p> <p>17 document. With that assumption in mind, that</p> <p>18 would seem to confirm that the bid of \$150,000</p> <p>19 was made, right?</p> <p>20 A. Yes.</p> <p>21 Q. I'm not leading you astray on this. That's what</p> <p>22 it was.</p> <p>23 So your counsel has just shown you an</p> <p>24 executed version of that sheriff's deed, right?</p> <p>25 A. Correct.</p>

Page 86

1 Q. Reflecting the \$150,000 successful bid, right?

2 A. Yes.

3 Q. And that's refreshed your memory that that bid

4 was made and ultimately was successful, right?

5 A. Yes.

6 Q. If the successful bid of the sheriff sale was

7 \$150,000 on October 11, 2018, the redemption

8 amount would not be \$278,457.17, would it?

9 MS. LAPIN: Can I ask, form,

10 foundation, calls for speculation. That would

11 involve you having to do calculations right now?

12 THE WITNESS: I don't know.

13 BY MR. WESTBROOK:

14 Q. Is it your understanding that the redemption

15 amount would be the successful bid amount

16 \$150,000, plus interest and maybe a small amount,

17 three figures, of costs, right?

18 MS. LAPIN: I'm just going to object.

19 MR. WESTBROOK: I'm asking what his

20 understanding is.

21 MS. LAPIN: Yeah. Yeah.

22 THE WITNESS: I don't know.

23 BY MR. WESTBROOK:

24 Q. Do you know if as of February of 2018 the

25 redemption amount for the property was the same

Page 88

1 (Off the record.)

2 BY MR. WESTBROOK:

3 Q. So when we broke, we had just started looking at

4 this document Exhibit 12?

5 A. Yes.

6 Q. What I wanted to ask you was the address -- so

7 there's an address block at the top Carrington

8 Mortgage Services, obviously, but then the

9 address is a P. O. box, P. O. Box 5001,

10 Westfield, Indiana 46074. Do you see that?

11 A. Yes.

12 Q. Do you know if that's the correct address for

13 borrowers to send requests for information to

14 CMS?

15 A. Yes. To my knowledge, that is the correct

16 address.

17 Q. Do you know if CMS received this letter?

18 A. I don't know. I would assume so. It seems to be

19 correctly addressed, but I don't know.

20 MS. LAPIN: If you don't know, you

21 don't know.

22 THE WITNESS: I don't know.

23 MS. LAPIN: Don't assume.

24 BY MR. WESTBROOK:

25 Q. We'll see another document. I'll just give you a

Page 87

1 as the payoff amount for the loan?

2 MS. LAPIN: Asked and answered. Same

3 objection.

4 MR. WESTBROOK: I haven't asked that

5 question before.

6 MS. LAPIN: I thought you did.

7 THE WITNESS: Can you repeat the

8 question?

9 MR. WESTBROOK: Let me rephrase.

10 BY MR. WESTBROOK:

11 Q. Do you know if it was correct as of February of

12 2019 that the redemption amount for the property

13 was the same as the payoff amount with the loan?

14 A. I don't know.

15 (Exhibit 12 marked.)

16 BY MR. WESTBROOK:

17 Q. I've just handed you what we marked Exhibit 12.

18 It's a letter that's bears the date of June 15,

19 2018. Is that right?

20 A. Yes.

21 Q. Appears to be addressed to Carrington Mortgage

22 Services, LLC, right?

23 A. Yes.

24 MS. LAPIN: Guys, can we go off record

25 one second?

Page 89

1 preview. There's another document where CMS

2 acknowledges receipt of it. So I'll just ask you

3 to assume it was received for the time being.

4 Now, as of the date of the letter, June

5 15, 2018, CMS was servicing Anthony Macholtz's

6 loan, right?

7 A. Yes.

8 Q. Now, there's some front matter that talks about

9 the mortgage that's at issue, but what I want to

10 talk about is underneath that there's a heading,

11 "Request for Information." Do you see that?

12 A. Yes.

13 Q. It starts, "My client hereby requests the

14 following servicing information regarding the

15 loan," and then there's a list of ten types of

16 items, right?

17 A. Correct.

18 Q. I want to focus in on just a few of those. No. 3

19 it says, "Copies of all statements regarding the

20 loan from its inception to date." Do you see

21 that?

22 A. Yes.

23 Q. Then No. 4, Copies of all servicing notes

24 regarding the loan from its inception to the

25 date." Do you see that?

<p style="text-align: right;">Page 90</p> <p>1 A. Yes.</p> <p>2 Q. No. 6 says complete account history for the loan</p> <p>3 showing dates and amounts of payments, credits,</p> <p>4 debits, fees, and principal and interest amounts.</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. Then on to No. 9 on the following page, it says,</p> <p>8 "Copies of any and all documents evidencing</p> <p>9 assignments of indebtedness, mortgage rights,</p> <p>10 servicing rights, or any other rights with</p> <p>11 respect to the loan from its inception to date."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. I'm going to sort of back up. Does CMS have</p> <p>15 procedures in place for responding to borrower</p> <p>16 requests for information?</p> <p>17 MS. LAPIN: Same objection. Just</p> <p>18 general objection for form, foundation, for</p> <p>19 perhaps seeking proprietary information regarding</p> <p>20 policies and procedures.</p> <p>21 MR. WESTBROOK: I want to clarify the</p> <p>22 question too and I'm sure you'll say same</p> <p>23 objection.</p> <p>24 MS. LAPIN: I'll say same objection,</p> <p>25 but go ahead.</p>	<p style="text-align: right;">Page 91</p> <p>1 MR. WESTBROOK: I want to clarify.</p> <p>2 BY MR. WESTBROOK:</p> <p>3 Q. Does CMS have procedures in place for responding</p> <p>4 to written requests by borrowers for servicing</p> <p>5 information about their loans?</p> <p>6 MS. LAPIN: Same objection.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. WESTBROOK:</p> <p>9 Q. Do those procedures discuss whether borrowers are</p> <p>10 entitled to receive past statements on their loan</p> <p>11 accounts?</p> <p>12 MS. LAPIN: Same objection.</p> <p>13 THE WITNESS: I don't know.</p> <p>14 BY MR. WESTBROOK:</p> <p>15 Q. Do you know if those procedures discuss whether</p> <p>16 borrowers are entitled to receive servicing notes</p> <p>17 with respect to their loan?</p> <p>18 MS. LAPIN: The first one you said was</p> <p>19 loan statements? That was your first one?</p> <p>20 MR. WESTBROOK: Yes.</p> <p>21 BY MR. WESTBROOK:</p> <p>22 Q. By loan statement, I'm referring to periodic loan</p> <p>23 statements that you didn't expect to receive on a</p> <p>24 monthly basis. Does that change your answer at</p> <p>25 all regarding procedures?</p>
<p style="text-align: right;">Page 92</p> <p>1 A. I would think that a borrower could expect to</p> <p>2 receive monthly statements upon request.</p> <p>3 Q. All right. But do you know if CMS's procedures</p> <p>4 talk about that specifically?</p> <p>5 A. I don't know.</p> <p>6 Q. Do you know if CMS's procedures for responding to</p> <p>7 borrower, written borrower requests for</p> <p>8 information, discuss whether borrowers are</p> <p>9 entitled to receive servicing assignment notices?</p> <p>10 A. I don't know.</p> <p>11 Q. Have you seen any written documents that call</p> <p>12 themselves a policy or procedure regarding</p> <p>13 responding to borrower written requests for</p> <p>14 information?</p> <p>15 MS. LAPIN: Same objection.</p> <p>16 THE WITNESS: I don't recall seeing any</p> <p>17 policies or procedures with respect to that.</p> <p>18 BY MR. WESTBROOK:</p> <p>19 Q. Have you had occasion to look for such a written</p> <p>20 policy or procedure document at CMS?</p> <p>21 MS. LAPIN: Same objection. Yeah, same</p> <p>22 objection.</p> <p>23 THE WITNESS: Not to my knowledge.</p> <p>24 BY MR. WESTBROOK:</p> <p>25 Q. During the June-July of 2018 time frame whether</p>	<p style="text-align: right;">Page 93</p> <p>1 CMS had a standard practice of not providing past</p> <p>2 statements to borrowers who request them in</p> <p>3 writing?</p> <p>4 MS. LAPIN: Same objection.</p> <p>5 THE WITNESS: I'm not aware of such a</p> <p>6 policy and procedure.</p> <p>7 MS. LAPIN: I'm sorry, Ted. You asked</p> <p>8 are you aware of a policy that tells them not to</p> <p>9 provide something?</p> <p>10 MR. WESTBROOK: That was the last</p> <p>11 question, yes.</p> <p>12 MS. LAPIN: Correct. And what was that</p> <p>13 item or the issue?</p> <p>14 MR. WESTBROOK: Periodic statements.</p> <p>15 BY MR. WESTBROOK:</p> <p>16 Q. Are you aware during that same time frame June</p> <p>17 July 2018 of any CMS standard practice of not</p> <p>18 providing servicing notes to borrowers who</p> <p>19 request them in writing?</p> <p>20 MS. LAPIN: Same objection.</p> <p>21 THE WITNESS: I'm not aware of that.</p> <p>22 BY MR. WESTBROOK:</p> <p>23 Q. Do you know if CMS responded to the letter</p> <p>24 represented in Exhibit 12?</p> <p>25 A. No, I don't know.</p>

<p style="text-align: right;">Page 94</p> <p>1 (Exhibit 13 marked.)</p> <p>2 BY MR. WESTBROOK:</p> <p>3 Q. I'm handing you what I just marked Exhibit 13,</p> <p>4 the first page at least reflects Carrington's</p> <p>5 letterhead, right?</p> <p>6 A. Yes.</p> <p>7 Q. And this document looks like it's dated</p> <p>8 July 25th, 2018, right?</p> <p>9 A. Correct.</p> <p>10 Q. And dated to my office Westbrook Law, PLLC,</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. Concerning the property that's at issue in the</p> <p>14 case, 1886 Russell Road, Baroda, Michigan, right?</p> <p>15 A. Yes.</p> <p>16 Q. Is this a document you've reviewed before?</p> <p>17 A. Yes. You just actually refreshed my memory. I</p> <p>18 did see this in response to this letter.</p> <p>19 Q. I thought it might.</p> <p>20 A. Seeing that many documents, they all become a</p> <p>21 blur.</p> <p>22 Q. Would you agree with me that this document seems</p> <p>23 to be a response by CMS to the letter reflected</p> <p>24 in Exhibit 12?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: right;">Page 95</p> <p>1 Q. Now, I'd ask you to just briefly flip through it</p> <p>2 to gain an understanding of the types of</p> <p>3 information that's attached to the letter.</p> <p>4 You've briefly had a chance to familiarize</p> <p>5 yourself with the document, right?</p> <p>6 A. Yes.</p> <p>7 Q. Is it fair to characterize this set of</p> <p>8 information here as a letter from Carrington</p> <p>9 followed by what seems to be documents associated</p> <p>10 with the property?</p> <p>11 A. Yes.</p> <p>12 Q. Do you have any reason to disagree with me that</p> <p>13 this contains CMS's response to the Exhibit 12</p> <p>14 request for information?</p> <p>15 A. I agree.</p> <p>16 MS. LAPIN: I'm just going to say,</p> <p>17 though, I don't think it's the one that --</p> <p>18 without going with a fine-tooth comb, I know</p> <p>19 that -- I'm not sure if -- I know I attached one</p> <p>20 to my motion for judgment on the pleadings. I'm</p> <p>21 not sure if it's the exact same version.</p> <p>22 MR. WESTBROOK: Then that's fine. I'll</p> <p>23 represent though --</p> <p>24 MS. LAPIN: I just double-checked it.</p> <p>25 It looks like it's close enough.</p>
<p style="text-align: right;">Page 96</p> <p>1 BY MR. WESTBROOK:</p> <p>2 Q. So, obviously, I don't expect you to know whether</p> <p>3 there are, you know, a missing page here and</p> <p>4 there. I'm asking more generally about the</p> <p>5 document, if it appears to be, you know, the set</p> <p>6 of information that was given by CMS in response</p> <p>7 to Exhibit 12.</p> <p>8 A. Right.</p> <p>9 Q. Now, as you flipped through there, and feel free</p> <p>10 to flip through it as much as you need to or want</p> <p>11 to, but as you flip through there, did you see in</p> <p>12 this stack of documents any periodic account</p> <p>13 statements?</p> <p>14 A. What I'm seeing, I'm not seeing any actual</p> <p>15 accounting statements.</p> <p>16 Q. In that stack that's Exhibit 13, is any part of</p> <p>17 the servicing notes history included?</p> <p>18 A. I didn't see it.</p> <p>19 Q. All right. Did you see any servicing notes or</p> <p>20 collection notes?</p> <p>21 A. I didn't see any service nor collection notes.</p> <p>22 There is a copy of the transaction history.</p> <p>23 Q. Right. And I wish I would have numbered these</p> <p>24 pages now, but I think you and I are looking at</p> <p>25 the same page there. It's dated July 26 of 2018,</p>	<p style="text-align: right;">Page 97</p> <p>1 right?</p> <p>2 A. Yes.</p> <p>3 Q. And I think you had discussed this form of</p> <p>4 document before when we were talking about the</p> <p>5 servicing notes that are reflected in Exhibit A,</p> <p>6 right?</p> <p>7 But what we're looking at inside of</p> <p>8 Exhibit 13 is it bears some similarity in how it</p> <p>9 looks to Exhibit 8, but it's actually a different</p> <p>10 type of document, right?</p> <p>11 A. Correct.</p> <p>12 Q. And so what type of information is reflected in</p> <p>13 this page that we're looking at within Exhibit</p> <p>14 13?</p> <p>15 A. This would be financial transactions.</p> <p>16 Q. And just summarizing what this appears to show in</p> <p>17 the columns, appears to be some disbursements</p> <p>18 maybe for taxes and/or insurance. Is that fair?</p> <p>19 A. Yes.</p> <p>20 Q. And appears maybe some charges as well for small</p> <p>21 amounts, several \$15 charges, a few \$20 charges,</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know if those represent inspection fees?</p> <p>25 A. Typically, yeah, from my experience, an</p>

<p style="text-align: right;">Page 98</p> <p>1 inspection fee is around that amount.</p> <p>2 MS. LAPIN: But just to be clear,</p> <p>3 you're not -- for this particular situation,</p> <p>4 that's all.</p> <p>5 MR. WESTBROOK: Right. We don't need</p> <p>6 to get into great detail on it. I'm just trying</p> <p>7 to confirm what I understand.</p> <p>8 MS. LAPIN: That's definitely</p> <p>9 understood.</p> <p>10 BY MR. WESTBROOK:</p> <p>11 Q. Did you see within this stack that's Exhibit 13</p> <p>12 any notice of a servicing transfer to CMS? Just</p> <p>13 to be clear, I think there may be a document</p> <p>14 purporting to be one from CitiMortgage in here.</p> <p>15 My question, though, I'm going to limit</p> <p>16 it now, is there such a document notice of</p> <p>17 servicing transfer from CMS in this stack?</p> <p>18 MS. LAPIN: In this stack, right.</p> <p>19 MR. WESTBROOK: In this stack. My</p> <p>20 understanding is there isn't one in this stack</p> <p>21 just so you know where I'm coming from.</p> <p>22 THE WITNESS: That's my understanding</p> <p>23 too.</p> <p>24 MS. LAPIN: Take your time.</p> <p>25 MR. WESTBROOK: It's possible that's</p>	<p style="text-align: right;">Page 99</p> <p>1 not in the stack either and it's somewhere else.</p> <p>2 MS. LAPIN: That's fine. Or maybe it's</p> <p>3 in a later one, something like that.</p> <p>4 MR. WESTBROOK: It very well could be.</p> <p>5 THE WITNESS: No, I'm not seeing that.</p> <p>6 BY MR. WESTBROOK:</p> <p>7 Q. CMS does maintain that it sent Anthony Macholtz a</p> <p>8 notice of servicing change-back in January of</p> <p>9 2017, right?</p> <p>10 A. I don't know.</p> <p>11 Q. Do you recall reviewing any notices of servicing</p> <p>12 transfer with respect to this loan?</p> <p>13 A. Possibly. There are that many documents. I</p> <p>14 can't recall whether I saw this document.</p> <p>15 Q. That's fair.</p> <p>16 Is it fair to say that CMS</p> <p>17 intentionally did not provide periodic account</p> <p>18 statements, servicing notes, and notices of</p> <p>19 servicing transfer in response to the request for</p> <p>20 information at Exhibit 12?</p> <p>21 MS. LAPIN: Objection. Form,</p> <p>22 foundation, calls for speculation.</p> <p>23 THE WITNESS: I have no reason to</p> <p>24 believe that Carrington would have withheld</p> <p>25 information.</p>
<p style="text-align: right;">Page 100</p> <p>1 BY MR. WESTBROOK:</p> <p>2 Q. Let's look at the second page of Exhibit 13. I'm</p> <p>3 looking at the first page. It says, "With regard</p> <p>4 to your request for protected documents,</p> <p>5 Carrington states that documents requested, if</p> <p>6 they exist, may be proprietary, confidential,</p> <p>7 and/or otherwise protected from disclosure and</p> <p>8 dissemination. Therefore, we are unable to</p> <p>9 provide you with copies of collection notes,</p> <p>10 collection records, communication files, or any</p> <p>11 other form of recorded data between CMS and the</p> <p>12 borrower, copies of servicing agreements,</p> <p>13 contracts, property inspections, invoices, and</p> <p>14 procedural manuals, et cetera." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Is there any other way to interpret that</p> <p>17 communication from CMS then that they are</p> <p>18 refusing to provide periodic statements,</p> <p>19 collection notes, and so forth?</p> <p>20 MS. LAPIN: I just object. Form,</p> <p>21 foundation, and the other thing is too, I'll just</p> <p>22 say because --</p> <p>23 MR. WESTBROOK: I want him to answer</p> <p>24 the question.</p> <p>25 MS. LAPIN: I was just going to say,</p>	<p style="text-align: right;">Page 101</p> <p>1 too, I think you're almost seeking a legal</p> <p>2 conclusion as well, because I think the</p> <p>3 interpretation and the contents of these letters</p> <p>4 are going to be governed by statute.</p> <p>5 MR. WESTBROOK: Okay.</p> <p>6 BY MR. WESTBROOK:</p> <p>7 Q. Let me ask it this way. Did it seem from the</p> <p>8 language used in the paragraph that I've read</p> <p>9 that CMS decided not to produce certain documents</p> <p>10 that were requested?</p> <p>11 MS. LAPIN: Same -- yeah, same. Form</p> <p>12 and foundation and with that word "decided."</p> <p>13 THE WITNESS: I don't know.</p> <p>14 BY MR. WESTBROOK:</p> <p>15 Q. Do you have an understanding of what makes</p> <p>16 periodic account statements protected documents</p> <p>17 as they are described here?</p> <p>18 A. No.</p> <p>19 Q. Are account statements considered confidential or</p> <p>20 proprietary to CMS?</p> <p>21 MS. LAPIN: Form, foundation, calls for</p> <p>22 speculation.</p> <p>23 THE WITNESS: Can you repeat the</p> <p>24 question, please?</p> <p>25 BY MR. WESTBROOK:</p>

<p style="text-align: right;">Page 102</p> <p>1 Q. Are periodic account statements considered 2 confidential or proprietary within CMS? 3 MS. LAPIN: I'm also going to object 4 that I don't know that the failure to have 5 periodic statements is specifically referenced in 6 that paragraph. My objection is the letter 7 speaks for itself. 8 THE WITNESS: I don't know. 9 BY MR. WESTBROOK: 10 Q. Do you know if CMS ever sent periodic statements 11 regarding the loan to Mr. Macholtz until -- or 12 prior to June of 2018? Sorry, that was clumsy. 13 Let me ask it again. 14 Do you know if CMS ever sent periodic 15 loan statements to Anthony Macholtz before June 16 of 2018, so before they were requested in the 17 letter? 18 A. I don't know. 19 Q. Did CMS's file for the loan have in it 20 CitiMortgage statements, periodic CitiMortgage 21 statements? 22 A. To my knowledge, yes. 23 Q. Those statements, the CitiMortgage statements to 24 Mr. Macholtz, would have indicated that they had 25 been sent to him, right?</p>	<p style="text-align: right;">Page 103</p> <p>1 MS. LAPIN: Objection. Form and 2 foundation. Documents will speak for themselves. 3 THE WITNESS: Not fully understanding 4 the question. 5 BY MR. WESTBROOK: 6 Q. Did you review any of the CitiMortgage periodic 7 statements regarding this loan? 8 A. Yes. 9 Q. Do you know if they had Mr. Macholtz's name on 10 them? 11 A. Yes. 12 Q. Do you know if they had an address, a mailing 13 address for him? 14 A. Yes. 15 Q. Do you know of any reason why it would be 16 problematic for CMS to provide those CitiMortgage 17 periodic statements upon his written request for 18 them? 19 A. I don't know. 20 MS. LAPIN: Same objection. 21 BY MR. WESTBROOK: 22 Q. Do you know of any reason why servicing notes, 23 like the servicing notes history document we 24 looked at in Exhibit 8, would be considered 25 protected documents by CMS?</p>
<p style="text-align: right;">Page 104</p> <p>1 MS. LAPIN: Same objection. 2 THE WITNESS: I don't know. 3 BY MR. WESTBROOK: 4 Q. Do you know if in response to Exhibit 12 if any 5 research was done within CMS regarding whether 6 the requested documents were confidential and 7 proprietary? 8 A. I don't know. 9 Q. Do you know of any policy or procedure in place 10 at CMS to do research regarding whether documents 11 requested by borrowers in writing are 12 confidential and proprietary? 13 MS. LAPIN: Same objection. 14 THE WITNESS: I'm not aware. 15 BY MR. WESTBROOK: 16 Q. Do you know if in response to Exhibit 12 if there 17 was any attempt made within CMS to locate or 18 review account statements for the loan? 19 A. I don't know. 20 Q. Do you know if in response to Exhibit 12 an 21 attempt was made within CMS to note the servicing 22 note? 23 A. I don't know. 24 Q. Apart from what you see here in Exhibit 13, are 25 you aware of any other responses by CMS to</p>	<p style="text-align: right;">Page 105</p> <p>1 Exhibit 12? 2 A. I'm not aware. 3 (Exhibit 14 marked.) 4 BY MR. WESTBROOK: 5 Q. I'm handing you what I just marked Exhibit 14, 6 which, again, it's on my firm's letterhead and 7 bears the date of April 24, 2018. Do you see 8 that? 9 A. Yes. 10 Q. Appears to reflect the same mailing address that 11 we saw on Exhibit 12, right? Carrington Mortgage 12 Services, P.O. Box 5001, Westfield, Indiana, 13 46074, right? 14 A. Correct. 15 Q. Is this a document that you had a chance to 16 review prior to your deposition today? 17 A. Yes. 18 Q. Do you have an understanding what this is? 19 A. Do you mind if I refresh my memory by reading it? 20 Q. Please do. 21 A. Yes. 22 Q. What's your understanding of what the document 23 is? 24 A. This is a document on Westbrook Law on behalf of 25 Anthony Macholtz. Identify what the alleged</p>

Page 106

1 notice of error regarding a breach letter from
2 what I can understand.
3 Q. Now, the letter talks briefly at the bottom of
4 the top page that you see there. It talks about
5 a communication August 19, 2018, posting,
6 foreclosure posting. Do you see that? It's the
7 beginning of the bottom paragraph.
8 A. Yes.
9 Q. And that's a true statement, isn't it? I'll read
10 it for you.
11 "On or about August 19, 2018,
12 Carrington, through its attorneys, Schneiderman &
13 Sherman, posted to Mr. Macholtz's property a
14 foreclosure notice specifying a sheriff sale date
15 of September 6, 2018."
16 MS. LAPIN: I'm just going to object on
17 the characterization of a true statement. Form
18 and foundation. He didn't write the letter, so
19 ...
20 BY MR. WESTBROOK:
21 Q. Do you have any reason to dispute that that's
22 true, that sentence?
23 A. I don't know. I didn't play any part in this.
24 Q. Right, but, you know, we've looked at documents
25 earlier. The document dated August 19 on

Page 108

1 THE WITNESS: That is Carrington's
2 business practice.
3 BY MR. WESTBROOK:
4 Q. Have you seen a notice CMS sent to Mr. Macholtz
5 of a right to cure that's dated at least 30 days
6 prior to initiating foreclosure?
7 A. I may have seen one in my review of the
8 documents, but there were that many documents, so
9 I can't recall whether I saw that individual
10 document.
11 Q. If you have seen such a document, would it have
12 been on Carrington letterhead, on CMS letterhead?
13 MS. LAPIN: I'm just going to object.
14 I know it's hard because he -- there have been
15 pleadings filed in this case including the
16 dispositive motion, which addresses these issues,
17 so I'm just going to say that regardless of
18 possibly his knowledge, I think Carrington's
19 position on that particular issue and supporting
20 documents have been made part of the record.
21 That's all I can say.
22 BY MR. WESTBROOK:
23 Q. We're here to try and get CMS's knowledge on
24 these things to the extent that it's reasonably
25 possible for you to know them, which is why

Page 107

1 Schneiderman letterhead, right?
2 MS. LAPIN: Then there was just the
3 bidding, so I think it's just what, Exhibit 10?
4 MR. WESTBROOK: We'll move on, but I'll
5 make it more general. I'll make it more general
6 and this will be easier.
7 BY MR. WESTBROOK:
8 Q. Is it your understanding that the Schneiderman
9 letterhead on CMS's behalf did do a foreclosure
10 posting regarding the property?
11 A. Yes.
12 Q. Above that sentence we just read and talked
13 about, there's discussion of an alleged
14 requirement and mortgage for some kind of notice.
15 Is that a fair characterization?
16 A. Yes.
17 Q. Now, I understand CMS doesn't think it violated
18 any provision of the mortgage. Fair to say?
19 A. Yes.
20 Q. Is it CMS's position that CMS provided 30 days'
21 written notice an opportunity to cure prior to
22 initiating foreclosure with respect to this home?
23 MS. LAPIN: I am just going to say
24 there are pleadings, yes, speak for themselves on
25 that point.

Page 109

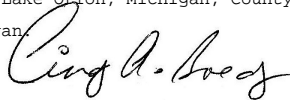
1 you're here. And I'd just say that as a prelude
2 to this question, which is, do you recall seeing
3 a notice drafted by CMS of a right-to-cure
4 default on the mortgage loan that's dated at
5 least 30 days prior to the initiation of
6 foreclosure?
7 A. Again, I reviewed that many documents. I don't
8 recall whether I saw the document to which you're
9 referring.
10 Q. Do you know if CMS sent a notice to Mr. Macholtz
11 of a right to cure after initiating foreclosure
12 process?
13 MS. LAPIN: Same objection.
14 THE WITNESS: Same answer. I saw that
15 many documents. I'm not aware of whether I saw
16 or didn't see such a document.
17 BY MR. WESTBROOK:
18 Q. I'm just trying to get us on the same page on
19 dates with this question.
20 Exhibit 10 we looked at. That's one of
21 the Schneiderman documents. It says, "Notice of
22 sale and pending foreclosure." It's dated
23 August 9 of 2018. Are you with me so far?
24 A. Yes.
25 Q. So would you agree with me that we can tell the

<p style="text-align: right;">Page 110</p> <p>1 foreclosure process had begun by August 9, 2018?</p> <p>2 MS. LAPIN: I'll just -- only objection</p> <p>3 is the document speaks for itself.</p> <p>4 THE WITNESS: Yes.</p> <p>5 (Exhibit 15 marked.)</p> <p>6 BY MR. WESTBROOK:</p> <p>7 Q. I'm handing you what has been marked as</p> <p>8 Exhibit 15. Have you had a chance to glance what</p> <p>9 the Exhibit 15 contains?</p> <p>10 A. Yes.</p> <p>11 Q. All right. And it's fair to say that the top</p> <p>12 document, the first few pages seems to be a</p> <p>13 letter on Carrington letterhead dated October 8</p> <p>14 of 2018?</p> <p>15 A. Correct.</p> <p>16 Q. I'm going to read the first line of the body. It</p> <p>17 says, "This letter is in response to a written</p> <p>18 inquiry received in our office on August 27,</p> <p>19 2018." Did I read that right?</p> <p>20 A. Yes.</p> <p>21 Q. Does it appear to you that Exhibit 15, at least</p> <p>22 the letter is, was sent by CMS in response to</p> <p>23 Exhibit 14?</p> <p>24 A. Yes.</p> <p>25 Q. If you would flip past the body of the letter and</p>	<p style="text-align: right;">Page 111</p> <p>1 then past all the disclosures, the very next page</p> <p>2 has in bold letters near the top the words,</p> <p>3 "Account Reinstatement Notification." Do you see</p> <p>4 that?</p> <p>5 A. I do.</p> <p>6 Q. There's a date at the very -- near the very top,</p> <p>7 it says, "Notice date, 10/9/18." Do you see</p> <p>8 that?</p> <p>9 A. Yes.</p> <p>10 Q. And reading just the beginning of the body, it</p> <p>11 says, "Carrington Mortgage Services, LLC,</p> <p>12 prepared this notification based on the request</p> <p>13 made by you or on your behalf to reinstate your</p> <p>14 loan and cure the delinquent and outstanding</p> <p>15 balances owed under your current note. You must</p> <p>16 remit total payment of \$166,920.97." Do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. Is it consistent with your understanding that</p> <p>20 this notification document was included with the</p> <p>21 letter that forms the first few pages of Exhibit</p> <p>22 15?</p> <p>23 A. Yes, to my knowledge.</p> <p>24 Q. Do you know if this document was transmitted</p> <p>25 directly or indirectly to Mr. Macholtz?</p>
<p style="text-align: right;">Page 112</p> <p>1 A. It bears the address of 6140 28th Street, which</p> <p>2 is Westbrook Law's address.</p> <p>3 Q. Right, his counsel?</p> <p>4 A. Yes.</p> <p>5 MS. LAPIN: The guy you're talking to</p> <p>6 right now.</p> <p>7 THE WITNESS: Exactly.</p> <p>8 MR. WESTBROOK: Correct. I'm not</p> <p>9 trying to trip you up on that.</p> <p>10 BY MR. WESTBROOK:</p> <p>11 Q. Do you know if this was or if it would have been</p> <p>12 transmitted by mail or by some other means?</p> <p>13 A. Typically by mail.</p> <p>14 Q. Do you know what date it was mailed on?</p> <p>15 A. I would say on or about October 8, 2018.</p> <p>16 Q. I see that date on the first page of Exhibit 15,</p> <p>17 but then on the account reinstatement</p> <p>18 notification portion it has a date of October 9</p> <p>19 of 2018.</p> <p>20 A. Correct.</p> <p>21 Q. Do you know if the notice date reflects the date</p> <p>22 that it was created?</p> <p>23 A. That would have been my understanding.</p> <p>24 MS. LAPIN: Can I just clarify one</p> <p>25 thing? I just wanted to be clear. Did you ask</p>	<p style="text-align: right;">Page 113</p> <p>1 him if this was included in it? Because when you</p> <p>2 look at the second paragraph from the bottom, the</p> <p>3 reinstatement, I thought, was submitted</p> <p>4 differently. That was my understanding.</p> <p>5 MR. WESTBROOK: I think it will be</p> <p>6 cleared up when I ask him about the next</p> <p>7 document, but I'll just --</p> <p>8 MS. LAPIN: That's fine.</p> <p>9 MR. WESTBROOK: It was included in what</p> <p>10 I received, yes. There's a separate one too.</p> <p>11 BY MR. WESTBROOK:</p> <p>12 Q. Moving on from that account reinstatement</p> <p>13 notification, seems to be a two-page document</p> <p>14 with some disclosures then after it, and then a</p> <p>15 document on CitiMortgage letterhead, right?</p> <p>16 A. Yes.</p> <p>17 Q. And then flipping a couple of additional pages,</p> <p>18 there's now another document that has a</p> <p>19 Carrington logo on the upper right. It's</p> <p>20 entitled, "Request for Mortgage Assistance."</p> <p>21 A. Right, yes.</p> <p>22 Q. All right. And a request for mortgage assistance</p> <p>23 packet is referenced in the letter, and that's</p> <p>24 the top page of Exhibit 15. It says, "Lastly, a</p> <p>25 request for mortgage assistance, RMA, packet is</p>

<p style="text-align: right;">Page 114</p> <p>1 enclosed per your request, right?</p> <p>2 A. Yes.</p> <p>3 Q. So is it your understanding then that the package</p> <p>4 that starts with this header "Request for</p> <p>5 Mortgage Assistance" is that same thing that's</p> <p>6 referred to in the letter?</p> <p>7 A. Yes.</p> <p>8 Q. As a general matter, a request for mortgage</p> <p>9 assistance is a document through which a borrower</p> <p>10 may be able to request a loan modification from</p> <p>11 CMS, right?</p> <p>12 A. Or the mortgage assistance as deemed applicable.</p> <p>13 It's not always a modification.</p> <p>14 Q. I see. There are other ways that mortgage</p> <p>15 assistance could potentially be provided, right?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have an understanding of why this request</p> <p>18 for mortgage assistance package or application</p> <p>19 was included with this response by CMS?</p> <p>20 A. Yeah, it was requested on page 2 of Exhibit 14.</p> <p>21 Q. Do you have an understanding of whether CMS</p> <p>22 intended to evaluate any requests for mortgage</p> <p>23 assistance application from Anthony Macholtz as</p> <p>24 of this date October 8 or 9 of 2018?</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">Page 115</p> <p>1 Q. Are you aware of a uniform policy within CMS of</p> <p>2 rejecting requests for mortgage assistance</p> <p>3 applications if CMS receives them less than 37</p> <p>4 days before a foreclosure sale?</p> <p>5 MS. LAPIN: Objection. Form,</p> <p>6 foundation, calls for speculation, possibly</p> <p>7 proprietary information. I think it seeks a</p> <p>8 legal conclusion too based on federal statute.</p> <p>9 THE WITNESS: I don't know.</p> <p>10 BY MR. WESTBROOK:</p> <p>11 Q. Do you recall from either reviewing the documents</p> <p>12 before the deposition or from the exhibits that</p> <p>13 we've looked at today that the sheriff sale for</p> <p>14 the Macholtzs' property was held on October 11 of</p> <p>15 2018?</p> <p>16 MS. LAPIN: I'm sorry, Ted, can you</p> <p>17 repeat that again?</p> <p>18 MR. WESTBROOK: I'm asking for</p> <p>19 confirmation if the sheriff sale was October 11</p> <p>20 of 2018.</p> <p>21 MS. LAPIN: I don't want -- if you need</p> <p>22 to see the sheriff deed, I'll show it to you if</p> <p>23 you need that. I don't know if you have that</p> <p>24 date committed to memory.</p> <p>25 THE WITNESS: Can I see the sheriff's</p>
<p style="text-align: right;">Page 116</p> <p>1 deed?</p> <p>2 MR. WESTBROOK: If you have it handy,</p> <p>3 that would be terrific.</p> <p>4 THE WITNESS: October 11 is correct.</p> <p>5 BY MR. WESTBROOK:</p> <p>6 Q. And that's consistent with what's stated on the</p> <p>7 account reinstatement notification which says</p> <p>8 your property has a scheduled foreclosure sale on</p> <p>9 10/11/2018.</p> <p>10 A. Correct.</p> <p>11 Q. I'll ask you to quickly turn to Exhibit 8, which</p> <p>12 is the servicing notes history. The specific</p> <p>13 page I'd like you to flip to is numbered 74.</p> <p>14 Just by way of background, are you</p> <p>15 aware of whether Mr. Macholtz sent in a completed</p> <p>16 request for mortgage assistance?</p> <p>17 A. I'm not aware.</p> <p>18 Q. I'd ask you then to turn back one page to the one</p> <p>19 that's numbered 73. The bottom of the page is</p> <p>20 dated November 16, 2018. The T number 8042,</p> <p>21 there's a notation there in the notes, "New</p> <p>22 hardship package received." Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Is that consistent with the borrower having</p> <p>25 submitted a request for mortgage assistance?</p>	<p style="text-align: right;">Page 117</p> <p>1 A. Yes.</p> <p>2 Q. Now, the following page numbered 74, the fourth</p> <p>3 entry down, it's dated November 19, 2018, T</p> <p>4 number 3553. Looking at the entry that says,</p> <p>5 "Docs sent to 2L for denial due to FCL sale held</p> <p>6 10/11/18."</p> <p>7 A. Yes.</p> <p>8 Q. Do you know what 2L stands for?</p> <p>9 A. It's my understanding that 2L stands for, like, a</p> <p>10 second look, like a second look at the documents.</p> <p>11 Q. An FCL sale would mean foreclosure sale, right?</p> <p>12 A. Yes.</p> <p>13 Q. And consistent with what you just told me, second</p> <p>14 look, another couple of entries down, T number</p> <p>15 7623, it says, "Second look review completed.</p> <p>16 Verified. FC sale held. Date in tempo,</p> <p>17 10/11/18. Sale held. Property is with the sale.</p> <p>18 Package denied and doc send to imaging. Is that</p> <p>19 right? Did I read it right?</p> <p>20 A. Yes.</p> <p>21 Q. So did that indicate to you when you look at it</p> <p>22 that some other person besides T 3553 reviewed</p> <p>23 the package?</p> <p>24 A. Yes.</p> <p>25 Q. The next line down, it says, "LM closed.</p>

<p style="text-align: right;">Page 118</p> <p>1 Intake-foreclosure sale within 37 days," right?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know what that means?</p> <p>4 A. Literally, I would understand it to be what it</p> <p>5 says. Lost mitigation closed.</p> <p>6 Intake-foreclosure sale within 37 days.</p> <p>7 Q. Does that indicate the reason for the denial of</p> <p>8 the lost mitigation application?</p> <p>9 A. That's how I understand it.</p> <p>10 Q. Do you know if at the time that CMS sent a</p> <p>11 request for mortgage assistance application to</p> <p>12 Mr. Macholtz through his attorney whether CMS</p> <p>13 intended to review the application once he</p> <p>14 submitted it to them?</p> <p>15 A. I don't know.</p> <p>16 Q. Is there any other person who would know the</p> <p>17 answer to that question at CMS?</p> <p>18 A. Possibly someone within our underwriting</p> <p>19 department.</p> <p>20 Q. Any particular person that you know of?</p> <p>21 A. No. No one that I can bring to mind.</p> <p>22 Q. Any particular job title that you know of?</p> <p>23 A. No.</p> <p>24 Q. If you were trying to find an answer to that</p> <p>25 question whether anyone intended to review the</p>	<p style="text-align: right;">Page 119</p> <p>1 package once it was submitted, how would you find</p> <p>2 that out?</p> <p>3 MS. LAPIN: I'm just going to object</p> <p>4 because -- on the form of the question. I think</p> <p>5 the way you're asking it is you're assuming that</p> <p>6 no one intended to review it.</p> <p>7 MR. WESTBROOK: That's the question I'm</p> <p>8 asking.</p> <p>9 BY MR. WESTBROOK:</p> <p>10 Q. If you want to find out whether that was the case</p> <p>11 or not, how would you find out?</p> <p>12 A. I would reach out to a supervisor in our</p> <p>13 underwriting department.</p> <p>14 (Exhibit 16 marked.)</p> <p>15 BY MR. WESTBROOK:</p> <p>16 Q. Handing you what's been marked Exhibit 16. The</p> <p>17 first page of Exhibit 16 is a fax cover sheet.</p> <p>18 It references my law firm, and I'll represent to</p> <p>19 you that the fax number there is the fax number</p> <p>20 that goes to my law firm's fax machine. But I'd</p> <p>21 like you to look at the following page. It's</p> <p>22 entitled, "Payoff Statement," right?</p> <p>23 A. Yes.</p> <p>24 Q. Dated October 9, 2018, right?</p> <p>25 A. Yes. Dated October 9, 2018.</p>
<p style="text-align: right;">Page 120</p> <p>1 Q. Is this a document that you had a chance to</p> <p>2 review prior to the deposition today?</p> <p>3 A. May well have been a document I reviewed, but the</p> <p>4 documents were so numerous, I can't recall this</p> <p>5 individual document.</p> <p>6 Q. What's the payoff amount that's reflected in the</p> <p>7 document?</p> <p>8 A. The total amount to pay the loan in full was</p> <p>9 \$284,597.40.</p> <p>10 Q. Do you have any reason to dispute that this is a</p> <p>11 payoff statement that CMS prepared and sent to</p> <p>12 Mr. Macholtz's counsel?</p> <p>13 A. No.</p> <p>14 Q. Now, are you aware that there were some written</p> <p>15 discovery activity in the case in this particular</p> <p>16 lawsuit?</p> <p>17 A. Could you elaborate?</p> <p>18 Q. There were requests for documents and those sorts</p> <p>19 of things back and forth between the parties?</p> <p>20 A. Within the exhibits that have already been</p> <p>21 presented?</p> <p>22 Q. Not within the exhibits, within the lawsuit.</p> <p>23 A. I'm not too sure.</p> <p>24 Q. Did you review any discovery instruments like</p> <p>25 requests for admission, requests for production</p>	<p style="text-align: right;">Page 121</p> <p>1 of documents, so forth, in preparation for</p> <p>2 today's deposition?</p> <p>3 A. I can't recall.</p> <p>4 Q. I think you testified before that you weren't</p> <p>5 personally involved in finding documents to</p> <p>6 produce in connection with written discovery in</p> <p>7 the case, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. Do you know who at CMS did have involvement in</p> <p>10 that?</p> <p>11 A. No.</p> <p>12 (Exhibit 17 marked.)</p> <p>13 BY MR. WESTBROOK:</p> <p>14 Q. I'm handing you what I marked as Exhibit 17.</p> <p>15 Exhibit 17 has the case caption for the present</p> <p>16 lawsuit and is entitled, "Defendants'</p> <p>17 Supplemental Responses to Plaintiff's Request for</p> <p>18 Admission." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Did you take any part in formulating CMS's</p> <p>21 response represented by this Exhibit 17?</p> <p>22 A. No.</p> <p>23 Q. With that understanding, I'm going to ask you</p> <p>24 about the supplement response that's on page 4 of</p> <p>25 the document. It's under the heading,</p>

<p style="text-align: right;">Page 122</p> <p>1 "Supplemental Response," and it says, "Admit that 2 at least one piece of correspondence you 3 attempted to mail to plaintiff at P.O. Box 287, 4 Baroda, Michigan, 49101-0287, was returned to you 5 undeliverable." Did I read that correctly? 6 A. Yes. 7 Q. And then under the answer portion admit or deny, 8 it says, "Defendants cannot admit or deny the 9 allegations. CMS's records indicate that mail 10 was returned as undeliverable on June 28, 2017; 11 July 13, 2017; and July 31, 2017." Do you see 12 that? 13 A. Yes. 14 Q. Have you reviewed any records at any time within 15 CMS that indicate that mail sent by CMS to 16 Mr. Macholtz was returned to CMS undelivered? 17 A. I'm trying to recall. I can't remember. 18 Honestly can't remember. 19 MS. LAPIN: Whether you saw this or 20 not? 21 THE WITNESS: Yes. 22 BY MR. WESTBROOK: 23 Q. Do you have an understanding of whether CMS's 24 records do indicate that mail was returned to CMS 25 undeliverable?</p>	<p style="text-align: right;">Page 123</p> <p>1 A. I don't know. 2 Q. Do you know if anyone at CMS attempted to 3 investigate which pieces of mail may have been 4 returned to CMS undeliverable? 5 A. I don't know. 6 Q. If you were trying to investigate and discover 7 whether certain documents were returned to CMS 8 undeliverable, what would you do? 9 A. I'd look into our document system of records to 10 see if there's any indication of mail being 11 returned to us and also check the notation 12 system. 13 Q. The notation system, would that be in the form of 14 Exhibit 8? 15 A. Looks like it, yes. 16 Q. Do you know if a notation would ordinarily be 17 placed into the servicing notes history if mail 18 were returned to CMS undeliverable to reach a 19 certain account? 20 A. To the best of my knowledge, yes. 21 Q. Is there any other system that you would look in 22 aside from the one reflected at Exhibit 8? 23 A. Let's go back to Exhibit 8 and refresh what that 24 exhibit is. Yeah, I'd also look in our imaging 25 system to see if there is any image of the</p>
<p style="text-align: right;">Page 124</p> <p>1 returned mail. 2 Q. All right. I'm trying to picture what the 3 imaging system looks like when you're at a 4 terminal. Is this in a form of a database with 5 links? 6 A. Yes. 7 Q. Would the imaging system for return mail include 8 an image of the returned item itself? 9 A. Potentially, yes. 10 Q. But as far as your knowledge of any return mail 11 in this instance relating to the Macholtzs' loan, 12 you haven't seen those documents? 13 A. I don't recall seeing them. There may have been 14 within the documents that I reviewed, but I don't 15 recall seeing them. 16 MR. WESTBROOK: I may be done. Let's 17 go off the record for just a minute. I'll look 18 at my notes. 19 (Off the record.) 20 MR. WESTBROOK: I don't have anything 21 further. 22 EXAMINATION 23 BY MS. LAPIN: 24 Q. Mr. Dewhurst, I just have two quick questions. 25 You were asked about servicing transfer</p>	<p style="text-align: right;">Page 125</p> <p>1 letters, and I just want to be clear, you're not 2 saying that Carrington didn't send servicing 3 transfer letters. You're just, as we sit here 4 today, not aware of them being sent? 5 A. Correct. 6 Q. The same thing with the mortgage default letter. 7 You're not saying that a letter wasn't sent to 8 Mr. Macholtz prior to the foreclosure involving 9 -- informing him of the default under the 10 mortgage and the right to reinstate. You're just 11 saying you don't recall those letters? 12 A. That's also correct. 13 Q. So if I represent that those letters exist, you 14 wouldn't dispute that they -- their existence? 15 A. No, I wouldn't. 16 Q. The other question I want to ask is counsel asked 17 you about research being done to respond to these 18 letters to determine if things were, I guess, 19 researched for confidentiality and proprietary 20 purposes and you said you didn't know if that had 21 been done. I just want to be clear. You just 22 don't have any personal knowledge of that. 23 You're not saying it wasn't done? 24 A. That's also correct. 25 Q. Just going one step further. If people at</p>

<p style="text-align: right;">Page 126</p> <p>1 Carrington are responding to requests for</p> <p>2 information, would you agree they are going to</p> <p>3 investigate and --</p> <p>4 MR. WESTBROOK: I'm going to object to</p> <p>5 the form as leading.</p> <p>6 BY MS. LAPIN:</p> <p>7 Q. They are going to research a file before they</p> <p>8 respond to the letter, correct?</p> <p>9 A. The fact that the receiver issued a request for</p> <p>10 information would cause them to research the file</p> <p>11 and provide information that they are able to</p> <p>12 provide.</p> <p>13 Q. And if they have -- if they deem something to be</p> <p>14 confidential or proprietary, it's not unusual or</p> <p>15 unwarranted for them to put that in the response,</p> <p>16 correct?</p> <p>17 MR. WESTBROOK: Same objection.</p> <p>18 THE WITNESS: Correct.</p> <p>19 MS. LAPIN: All right. I think that's</p> <p>20 it.</p> <p>21 MR. WESTBROOK: I don't have anything</p> <p>22 further.</p> <p>23 COURT REPORTER: Do you want to order</p> <p>24 the transcript?</p> <p>25 MR. WESTBROOK: Yes.</p>	<p style="text-align: right;">Page 127</p> <p>1 COURT REPORTER: Do you want a hard</p> <p>2 copy or just electronic?</p> <p>3 MR. WESTBROOK: Just electronic.</p> <p>4 COURT REPORTER: Deb, copy of the</p> <p>5 transcript for you?</p> <p>6 MS. LAPIN: Yes, just as cheaply as</p> <p>7 possible.</p> <p>8 (Deposition concluded at 2:11 p.m.)</p> <p>9 - - -</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 128</p> <p>1</p> <p>2 C E R T I F I C A T E O F N O T A R Y</p> <p>3 S T A T E O F M I C H I G A N)</p> <p>4)ss.</p> <p>5 C O U N T Y O F O A K L A N D)</p> <p>6 I, Cindy A. Boedy, do hereby</p> <p>7 certify that the preceding deposition was reported by</p> <p>8 me, was recorded by me stenographically and later</p> <p>9 reduced to typewritten form under my supervision, and</p> <p>10 is a true and complete transcript.</p> <p>11 I further certify that I am not</p> <p>12 connected by blood or by marriage with any of the</p> <p>13 parties, their attorney or agents; and that I am not</p> <p>14 interested directly, indirectly, or financially in the</p> <p>15 matter of controversy.</p> <p>16 In witness whereof, I have hereunto</p> <p>17 set my hand this day in Lake Orion, Michigan, County of</p> <p>18 Oakland, State of Michigan.</p> <p>19 </p> <p>20 Cindy A. Boedy, CSR 4696</p> <p>21 Certified Stenographic Reporter</p> <p>22 Oakland County, Michigan</p> <p>23 My commission expires 10/4/26</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 129</p> <p>1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE</p> <p>2 Litigation Services is committed to compliance with applicable federal</p> <p>3 and state laws and regulations ("Privacy Laws") governing the</p> <p>4 protection and security of patient health information. Notice is</p> <p>5 hereby given to all parties that transcripts of depositions and legal</p> <p>6 proceedings, and transcript exhibits, may contain patient health</p> <p>7 information that is protected from unauthorized access, use and</p> <p>8 disclosure by Privacy Laws. Litigation Services requires that access,</p> <p>9 maintenance, use, and disclosure (including but not limited to</p> <p>10 electronic database maintenance and access, storage, distribution/</p> <p>11 dissemination and communication) of transcripts/exhibits containing</p> <p>12 patient information be performed in compliance with Privacy Laws.</p> <p>13 No transcript or exhibit containing protected patient health</p> <p>14 information may be further disclosed except as permitted by Privacy</p> <p>15 Laws. Litigation Services expects that all parties, parties'</p> <p>16 attorneys, and their HIPAA Business Associates and Subcontractors will</p> <p>17 make every reasonable effort to protect and secure patient health</p> <p>18 information, and to comply with applicable Privacy Law mandates,</p> <p>19 including but not limited to restrictions on access, storage, use, and</p> <p>20 disclosure (sharing) of transcripts and transcript exhibits, and</p> <p>21 applying "minimum necessary" standards where appropriate. It is</p> <p>22 recommended that your office review its policies regarding sharing of</p> <p>23 transcripts and exhibits - including access, storage, use, and</p> <p>24 disclosure - for compliance with Privacy Laws.</p> <p>25 © All Rights Reserved. Litigation Services (rev. 6/1/2019)</p>

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--

--	--	--	--